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ACTIVITIES OF THE COMMITTEE ON
GOVERNMENTAL AFFAIRS

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

ONE HUNDRED EIGHTH CONGRESS



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CONTENTS

	Page
I. Highlights of Activities	1
Intelligence Reform	1
Postal Civil Service Retirement Funding	3
Homeland Security	4
General Governmental Affairs	4
II. Committee Jurisdiction	4
III. Bills and Resolutions Referred and Considered	7
IV. Hearings	7
V. Reports, Prints, and GAO Reports	16
VI. Official Communications	20
VII. Legislative Actions	21
Measures Enacted Into Law	21
Postal Naming Bills	31
Measures Favorably Reported by Committee and Passed by the Senate	37
Selected Measures Reported by the Committee	42
VIII. Presidential Nominations	43
IX. Activities of the Subcommittees	47
INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES SUBCOMMITTEE	
I. Hearings	47
II. Legislation	55
III. GAO Reports	60
OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE	
I. Hearings	61
II. Legislation	68
Measures Enacted Into Law	68
Measures Favorably Reported by the Subcommittee and Passed by the Senate	70
Measures Referred to the Subcommittee upon which Hearings were held or other Legislative Action was taken	71
Measures which did not advance beyond referral to Subcommittee	72
III. GAO Reports	74
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS	
I. Historical Background	77
A. Subcommittee Jurisdiction	77
B. Past Investigations	78
II. Subcommittee Hearings during the 108th Congress	82
III. Legislation Activities during the 108th Congress	106
IV. Reports and Prints	110
V. Requested and sponsored GAO Reports	115

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL
AFFAIRS DURING THE 108TH CONGRESS

DECEMBER 22, 2006.—Ordered to be printed
Filed, under authority of the order of the Senate of December 9, 2006

Ms. COLLINS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Governmental Affairs during the 108th Congress. These activities reflect the broad scope of responsibilities vested in the Committee by the Legislative Reorganization Act of 1946, as amended; by Rule XXV(k) of the Standing Rules of the Senate; and by additional authorizing resolutions. Senator Collins was Chairman of the Committee throughout the 108th Congress, and Senator Lieberman was the Ranking Member.

I. HIGHLIGHTS OF ACTIVITIES

INTELLIGENCE REFORM

The Committee's most notable effort during the 108th Congress was a bipartisan push to reform the Nation's intelligence apparatus to improve capabilities to detect and thwart plans for terror attacks. The result was Congressional passage and Presidential signing of S. 2845, the Intelligence Reform and Terrorism Prevention Act of 2004.

On July 22, 2004, the Congressionally chartered, independent, and bipartisan National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission") reported on its 20-month investigation into the terror attacks of September 11, 2001. It made voluminous findings and issued more than 40 recommendations, including two key items on intelligence: First, that the U.S. Intelligence Community, still configured for multiple efforts focused on a Cold War adversary, needed a National Intelligence Director (NID) to coordinate activities against terrorists and other 21st Century threats; and second, that the Executive Branch, lacking an effective, unified planning mechanism for counterterrorism operations and a mechanism to coordinate intelligence analysis of terrorist threats, needed a National Counterterrorism Center (NCTC).

The 9/11 Commission noted that a key factor in U.S. intelligence agencies' failure to "connect the dots" among various clues that a major terrorist operation was imminent in 2001 was the very structure of the Intelligence Community. That community comprised at least 15 agencies, with functional and organizational differences amounting to "stovepipes" where information could move up and down, but seldom across or beneath any unifying gaze and direction. Some agencies focused on gathering intelligence abroad; among these, the Central Intelligence Agency (CIA) conducted human-intelligence collection and all-source analysis, while signals and imagery intelligence were carried out by agencies within the Department of Defense. Federal law restricted CIA's conduct of internal-security functions, and the Federal Bureau of Investigation (FBI) guarded its role as chief domestic-intelligence and law-enforcement agency. Information sharing and coordination among these agencies was limited by law, by structure, and by practice.

Meanwhile, no one official or entity had the vantage point or the express authority to review the overall flow of data and analysis, to reallocate assets, or to coordinate efforts among intelligence agencies.

These limitations—which survived several special-commission recommendations for change published over a period of decades—were not critical problems during the protracted, nuclear-restrained confrontation with the Soviet Union and its Warsaw Pact allies. Some level of U.S. intelligence and counter-intelligence synchronization emerged naturally from the common focus on a known set of nation-state actors who generally operated through standard military, diplomatic, intelligence, and client-state instrumentalities.

The main challenge facing the United States changed, however, when the Soviet Bloc collapsed and Islamic extremist movements like al Qaeda arose as stateless, geographically dispersed threats able to use unofficial financing, high-speed travel, advanced technologies, and Web or wireless communications to plan and carry out deadly attacks like the 1993 and 2001 World Trade Centers strikes and bombings directed at American citizens, ships, and facilities overseas.

On the night of July 22, 2004—the day of the 9/11 Commission report's release—U.S. Senate leadership tasked the Governmental Affairs Committee with drafting legislation to be submitted to the full Senate by October 1 of that year. Some of the 9/11 Commission's recommendations could be moved forward by Executive Orders from the President, but matters like creating the NID position and the NCTC would require legislation. The Governmental Affairs Committee was given the assignment of preparing legislation because it has jurisdiction over Executive Branch reorganization, as with the legislation that created the Department of Homeland Security (DHS). In light of the normal pace of legislative drafting, the multiplicity of agencies and operations affected, and the urgency of the task, this was a formidable assignment.

Chairman Collins and Ranking Member Lieberman agreed that a sustained bipartisan effort would be required to meet the target date for draft legislation. The Committee held eight hearings from late July until mid-September 2004. Majority and Minority staffs collaborated through the Senate's traditional August recess to move the work along.

The Committee met in mid-September to debate its draft legislation and to consider more than 30 offered amendments. The intelligence-reform bill was introduced and reported on September 23, 2004, with Chairman Collins as sponsor.

Nearly 2 weeks of floor debate saw more than 300 additional amendments offered. As in earlier proceedings, bipartisan negotiations and votes accepted some changes while preserving the essence of the bill. The Senate passed S. 2840, the Intelligence Reform Act of 2004, on October 6, 2004, by a vote of 96 to 2.

The bill enacted by the Senate provided for a NID and for the NCTC, but also for a protective Privacy and Civil Liberties Oversight Board and a structure to expand information sharing within the Executive Branch.

Meanwhile, the House of Representatives had enacted its own intelligence-reform legislation. The House measure included immigration and criminal-penalty clauses not addressed in the 9/11 Commission report, kept top-level intelligence funding amounts classified, configured the NID and NCTC differently, and did not include a Privacy and Civil Liberties Oversight Board.

Senate and House conferees were appointed to resolve differences between the bills, but difficult negotiations dragged on past the 2004 general election. Conferees finally reached agreement on a bill on Sunday night, December 5, 2004. The House passed the final bill, now known as S. 2845, the Intelligence Reform and Terrorism Prevention Act of 2004, by a 336–75 vote on December 7. Chairman Collins and Ranking Member Lieberman were recorded as Senate sponsor and original cosponsor, respectively. The Senate passed it by an 89–2 vote on December 8. The President signed the Act on December 17, 2004, making it Public Law 108–458.

The law established the DNI as the head of the Intelligence Community and as the principal intelligence adviser to the President, with the responsibility and the authority to oversee and direct implementation of the National Intelligence Program. The DNI was also granted the authority to task intelligence collection and analysis, as well as significant budget and personnel authority.

The NCTC established by the Act is intended to provide horizontal integration of counterterrorism intelligence analysis and operational planning among Executive Branch departments.

Other provisions in the Act dealt with security clearances, FBI restructuring, policy guidelines and technologies for information sharing, public diplomacy and outreach, transportation-security strategy, biometric personal-identification technology, terrorist travel and screening standards, border-protection measures, the Incident Command System, and interoperable communications, among other matters.

POSTAL CIVIL SERVICE RETIREMENT FUNDING

During the 108th Congress, the Committee also deliberated on, and reported, S. 380, the Postal Civil Service Retirement System Funding Reform Act of 2003.

The measure revised rules for calculating and paying U.S. Postal Service contributions to the Federal Civil Service Retirement and Disability Fund (CSRDF). By replacing a static formula that underestimated investment earnings and required high Postal Service payments into the CSRDF, the measure secured savings for the

Postal Service that were expected to offset the need for postal rate increases for several years. The change did nothing to impair the retirement assets accumulating for Postal Service employees, but reduced cash-flow demands that the Federal Office of Personnel Management (OPM) estimated would have led to a \$78 billion actuarial overfunding of retirement liabilities.

The measure was introduced on February 12, 2003, by Chairman Collins with Senators Brownback and Carper as original cosponsors, and with bipartisan support from 21 other Senators. The Senate adopted the legislation by unanimous consent on April 2, 2003, and it passed the House on a 424–0 roll-call vote on April 8, 2003. The President signed the Act on April 23, 2003, whereupon it became Public Law 108–18.

HOMELAND SECURITY

As described elsewhere, the Committee devoted considerable time and attention to issues and legislative proposals relating to homeland security. As part of these activities, on August 13, 2003, Ranking Member Lieberman released a staff report, “State and Local Officials: Still Kept in the Dark About Homeland Security” (S. Rept. 108–83). The report found that too often State and local officials are asked to fight the war against terrorism with incomplete and unreliable access to homeland security information from Federal agencies. The report noted that there is no effective mechanism for allowing hundreds of thousands of local law enforcement officials to systematically provide information to, or receive information from, the Federal Government. The report made eight recommendations for improving the relationship and the information sharing between the Federal and local levels.

GENERAL GOVERNMENTAL AFFAIRS

During the 108th Congress, the Committee also considered several matters affecting the Federal Government operations that became public law. These measures included: H.R. 3054 (Public Law 108–133), which allowed retirement-annuity credit for military service performed by current or former members of the U.S. Secret Service, the U.S. Park Police, and the District of Columbia Police and Fire Departments; S. 610 (Public Law 108–201), which provided increased workforce flexibilities and other personnel provisions for the National Aeronautics and Space Administration; and H.R. 2751 (Public Law 108–271), which provided human-capital administrative flexibility for the U.S. General Accounting Office (GAO).

II. COMMITTEE JURISDICTION

The jurisdiction of the Committee (which operated as the Committee on Governmental Affairs throughout the 108th Congress, and was renamed the Committee on Homeland Security and Governmental Affairs when the 109th Congress convened) derives from the Rules of the Senate and from Senate Resolutions:

RULE XXV

* * * * *

(k)(1) Committee on Governmental Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects: 1. Archives of the United States. 2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974. 3. Census and collection of statistics, including economic and social statistics. 4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate. 5. Federal Civil Service. 6. Government information. 7. Intergovernmental relations. 8. Municipal affairs of the District of Columbia, except appropriations therefore. 9. Organization and management of United States nuclear export policy. 10. Organization and reorganization of the executive branch of the Government. 11. Postal service. 12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

(2) Such committee shall have the duty of (A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports; (B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government; (C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and (D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

SENATE RESOLUTION 66, 108TH CONGRESS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Sec. 11. (a) * * *

* * * * *

(e) INVESTIGATIONS

(1) In General—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-manage-

ment relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies;

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs:

Provided, That, (1) in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purposes of this subsection, the committee, or any duly authorized subcommittee thereof, or in chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2003, through February 28, 2005, is authorized, in its, his, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) All subpoenas and related legal processes of the committee and in subcommittees authorized under S. Res. 66 of the One Hundred Eighth Congress, second session, are authorized to continue.

III. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 108th Congress, 148 Senate bills and 79 House bills were referred to the Committee for consideration. Also, nine Senate Resolutions, eight Senate Concurrent Resolutions, one Senate Joint Resolution, one House Joint Resolution, and one House Concurrent Resolution were referred to the Committee. The Committee reported 120 bills; an additional 28 measures were discharged.

Of the legislation received by the Committee, 89 measures became public laws, including 74 postal naming bills.

IV. HEARINGS

During the 108th Congress, the Committee held 106 hearings on legislation, oversight issues, and nominations. Issues addressed in

the Committee's legislative and oversight hearings ranged from waste in Federal programs and dangers of medicine purchases through the Internet, to problems with college savings plans and patient-safety practices at hospital.

The Committee also held 14 business meetings. Major topics examined during Committee hearings included:

HOMELAND SECURITY

On April 9, 2003, the Committee conducted a hearing titled "Investing in Homeland Security: Challenges on the Front Line." The Committee heard from first responders, including firefighters, police, and emergency medical personnel, as part of an examination of how effectively the Federal Government is assisting first responders and State and local governments in their homeland-security efforts. Witnesses spoke of challenges facing first responders and the lack of resources reaching the local level.

At the Committee's May 1, 2003, hearing on "Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs," Homeland Security Secretary Tom Ridge discussed challenges in providing Federal resources to States, localities, and first responders.

On May 15, 2003, the Committee's hearing on "Investing in Homeland Security: Challenges Facing State and Local Governments," continued to examine challenges facing State and local homeland-security efforts and the distribution of Federal funds for those efforts. Testimony focused on how best to distribute homeland-security resources, and whether to provide resources at the State, city, or county level.

INTELLIGENCE

On February 14, 2003, the Committee conducted a hearing on "Consolidating Intelligence Analysis: A Review of the President's Proposal to Create a Terrorist Threat Integration Center" (TTIC). Four witnesses testified about the proposed TTIC: Senator Warren Rudman, Governor James Gilmore, Jeffrey Smith, and James Steinberg. Senator Rudman spoke of the need for more clarity on the structure and functions of the TTIC, and recommended further study of legal issues in the proposed widespread information sharing between the FBI and CIA. Governor Gilmore testified on the work, since 1999, of the Congressional Advisory Commission on Terrorism and Weapons of Mass Destruction (the "Gilmore Commission"). In December 2002, the Gilmore Commission issued its fourth report, which recommended creating an intelligence-fusion center: The National Counter Terrorism Center, a stand-alone agency outside of the FBI, CIA, and DHS, charged with analyzing foreign and domestic intelligence on terrorists and terror organizations. The Gilmore Commission recommended that this entity be an independent agency, with a head appointed by the President and confirmed by the Senate, and that intelligence collection on international terrorist activities within the United States, including intelligence collected through the Foreign Intelligence Surveillance Act, be transferred to this new entity. Mr. Steinberg, who served as Deputy National Security Advisor in the Clinton Administration, testified that a strong entity was needed to analyze domestic and foreign intelligence regarding terrorism, and that it should be

based in the Department of Homeland Security. Mr. Smith, who previously served as General Counsel of the CIA, recommended combining the counterterrorism centers of the FBI and CIA into a single national counterintelligence center under the supervision of the Director of Central Intelligence (DCI). He also urged serious consideration be given to creating a domestic security service along the lines of Britain's MI5, responsible for domestic intelligence collection, but without arrest authority.

On February 26, 2003, the Committee held a hearing titled, "Consolidating Intelligence Analysis: A Review of the President's Proposal to Create a Terrorist Threat Integration Center—Day 2," a sequel to the February 14 session. Three Administration officials testified on the proposed TTIC: Winston Wiley of the CIA, Pasquale D'Amuro of the FBI, and Gordon England of the DHS. Mr. Wiley said the TTIC would be a joint venture that would give participating agencies complete access to other agencies' relevant intelligence. Mr. D'Amuro described the FBI's ongoing efforts to reform its intelligence collection and analysis capabilities. Deputy Secretary England testified that the DHS would not conduct its own analysis of terrorist intelligence, but would participate in the TTIC's analytical efforts.

INTELLIGENCE REFORM

"Making America Safer: Examining the Recommendations of the 9/11 Commission" was the theme of a Committee hearing on July 30, 2004. Witnesses were Thomas Kean, Chairman, and Lee Hamilton, Vice-Chairman, of the 9/11 Commission. The Commissioners' testimony focused on the Commission's four main structural recommendations: (1) creating an NCTC; (2) creating the position of NID; (3) unifying Intelligence Community participants in a network-based, information-sharing system; and (4) strengthening the ability of the FBI and homeland defenders to carry out their counterterrorism responsibilities. The Commissioners envisioned the NCTC as a civilian-led, unified joint command for counterterrorism, with tasking authority for all counterterrorism collection and analysis across government, but with individual agencies executing operations. The NID would be part of the Executive Office of the President and would have authority over all Intelligence Community elements, including personnel, security, and information technology. Noting that a key failing before the attacks of September 11, 2001, was a lack of effective information sharing, the Commissioners recommended creating a decentralized network to allow agencies' databases to be searchable across agency lines. The Commissioners did not support creating a domestic intelligence agency, but suggested that the FBI needs to strengthen the intelligence and national-security aspects of its workforce and institutional culture.

On August 3, 2004, the Committee held a hearing titled "Assessing America's Counterterrorism Capabilities." The first panel of witnesses comprised John Brennan, Director, TTIC; John Pistole, Executive Assistant Director for Counterterrorism and Counterintelligence, FBI; Lieutenant General Patrick Hughes, Assistant Secretary for Information Analysis, DHS; and Philip Mudd, Deputy Director, Counterterrorist Center, CIA. Director Brennan supported establishing the NCTC, but cautioned against adversely af-

fecting ongoing activities in the war on terror. Assistant Director Pistole focused his testimony on the FBI's expanded intelligence capabilities, and its efforts to build a workforce with an expertise in intelligence. Lt. Gen. Hughes said creation of the NID and NCTC would enhance DHS's ability to identify threats and to map them against vulnerabilities. Deputy Director Mudd said the relationship between the CIA's Counterterrorist Center and the FBI must continue in the NCTC. The second panel consisted of Philip Zelikow, Executive Director, and Christopher Kojm, Deputy Executive Director, of the 9/11 Commission. They submitted joint testimony that said the Executive Branch is currently organized according to management principles of the 1950s, with large, vertically integrated agencies. Each agency does its job, and then tries to get others to cooperate. To do so, each agency sets up its own interagency process, and each agency sets up its own fusion center. As a result, there is a willingness to cooperate, but no joint analysis and no joint planning. Messrs. Zelikow and Kojm recommended that the NCTC Directorate of Intelligence have primary responsibility for analysis of terrorism from all sources of information, while the NCTC Directorate of Operations would be responsible for providing guidance and plans for joint counterterrorism operations. They also said that it is essential that the NID have authorities at least as strong as the 9/11 Commission recommendations, or risk becoming a bureaucratic "fifth wheel."

On August 16, 2004, the Committee conducted a hearing, "Reorganizing America's Intelligence Community: A View from the Inside." William Webster, a former Director of the FBI and DCI, testified that if Congress intends to create a National Intelligence Director position, it must grant the NID authority to manage the intelligence budget, name or approve leaders of the main intelligence agencies, and review their performance. Former DCI R. James Woolsey supported creating an NID and an NCTC reporting to the NID, but argued for giving the Secretary of Defense the ability to appeal NID decisions to the President. The third former DCI testifying, retired Admiral Stansfield Turner, said the NID should have strong budget authority, and argued for clear delineations among the National Foreign Intelligence Program (NFIP) at the FBI, the Joint Military Intelligence Program (JMIP) at DOD, and the Tactical Intelligence and Related Activities (TIARA) program within DOD. He argued that only assets tasked by field commanders belong in JMIP or TIARA, and that everything else should go into the NFIP.

The August 17, 2004, hearing on "Voicing a Need for Reform: The Families of 9/11," brought family members affected by the terrorist attacks of September 11, 2001, before the Committee. Kristen Breitweiser urged intelligence reform, including establishing a NID. Mary Fetchet told the story of her son, Brad, who died on the 89th floor of Tower Two of the World Trade Center because there was no directive to evacuate. Ms. Fetchet said the country remains "amazingly ill prepared" to prevent another terrorist attack, and supported implementing all of the 9/11 Commission recommendations. Steve Push urged creating an NID position with ample authority, able to marshal all resources for collecting and analyzing intelligence.

On August 26, 2004, the Committee held a closed hearing on “Reorganizing the Intelligence Community: To What Extent Should the NID Have Budget Authority and the National Counterterrorism Center Play a Role in Operational Planning?” Classified testimony was presented by Dr. Stephen A. Cambone, Under Secretary of Defense for Intelligence, DOD; Larry C. Kindsvater, Deputy Director of Central Intelligence for Community Management; Arthur Cummings, Section Chief, International Terrorism Operations Section I, Counterterrorism Division, FBI; a counterterrorism operations specialist from the CIA; and Lt. Gen. Norton A. Schwartz, Director for Operations, J-3, Joint Staff, DOD. Highlights from their unclassified written statements follow. Dr. Cambone described intelligence formulation as a shared, checks-and-balances process between the DCI and the Secretary of Defense. Deputy Director Kindsvater supported the 9/11 Commission’s proposal to give the NID substantial control over the NFIP budget, personnel, and management. Mr. Cummings testified about significant reform steps at the FBI since September 11, 2001, such as forming an Office of Intelligence and a Terrorist Financing Operations Section, participating in TTIC and the Terrorist Screening Center, and expanding from 34 intergovernmental Joint Terrorism Task Forces (JTTFs) to 100 JTTFs across the country. Mr. Cummings testified in support of the creation of a NID and NCTC, but noted the importance of addressing civil liberties concerns as both offices are created.

On September 8, 2004, the Committee conducted a hearing, “Building an Agile Intelligence Community to Fight Terrorism and Emerging Threats.” Director Robert Mueller testified on FBI improvements since the 9/11 terrorist attacks in collecting, analyzing, and distributing intelligence. He identified three principles that should guide any attempt to reform the Intelligence Community: (1) providing analysts transparency into sourcing, i.e., analysts should not be separated from operators; (2) maintaining the operational chain of command, i.e., the NID and the NCTC chief should not have operational authority over the FBI or other agencies; and (3) protecting civil liberties, noting that “concentrating domestic and international counterterrorism operations in one organization represents a serious risk to American civil liberties.” Acting DCI John McLaughlin advanced five principles for reform: (1) fostering speed and agility, (2) creating form that follows function, (3) achieving consensus on expectations for intelligence agencies, (4) promoting “some competition,” and (5) preserving foreign partnerships. Director McLaughlin’s view was that the NID should (1) maintain objectivity and independence as the President’s principal intelligence advisor; (2) have full authority to determine, reprogram, and execute all funding for the core national intelligence agencies—CIA, NSA [National Security Agency], NGA [National Geospatial-Intelligence Agency], and NRO [National Reconnaissance Office]; (3) have clear authority to provide strategic direction to agencies and drive their collection and analytic priorities; (4) have authority to reorient intelligence capabilities to meet new threats; (5) have direct access to substantive experts; (6) be able to bridge any remaining foreign-domestic divide in areas of policy and information technology; (7) set education, training and career-develop-

ment standards; and (8) ensure continued synergy from close interaction of operators and analysts.

On September 13, 2004, the Committee conducted a hearing, "Ensuring the U.S. Intelligence Community Supports Homeland Defense and Departmental Needs," with testimony from Secretary of State Colin Powell and Secretary of Homeland Security Tom Ridge. Secretary Powell supported the President's intelligence-reform proposal to create a strong NID with budgetary authority. He described the State Department's needs for intelligence, and suggested that Intelligence Community products tended to be tailored more for military than diplomatic use. He noted the unique capabilities of the State Department's Bureau of Intelligence and Research (INR), and urged that they be preserved as a departmental asset in any intelligence reform. Secretary Powell also emphasized the need for competitive analysis and critical evaluation of Intelligence Community performance. Secretary Ridge described how recent Executive Orders would improve intelligence and homeland security. He noted that under the Executive Order strengthening the DCI's management of the Intelligence Community, DCI will perform the functions of the NID "within the constraints of existing law" until intelligence-reform legislation is enacted. Secretary Ridge said the President's proposal to strengthen management of the Intelligence Community will "greatly enhance" DHS's ability to protect the homeland.

TERRORISM

During the March 20, 2003, hearing on "Cargo Containers: The Next Terrorist Target?," the Committee heard testimony from five witnesses regarding the potential for terrorist exploitation of the global cargo-container system and government response efforts. Witnesses were Under Secretary of Homeland Security Asa Hutchinson, Vermont U.S. Attorney Peter Hall, Stephen Flynn, Captain Jeffrey Monroe, and Michael O'Hanlon. Under Secretary Hutchinson testified that securing the global container system was a high priority because of its current vulnerability to attack. He gave examples of how smugglers have routinely compromised the system and discussed how terrorists could similarly exploit containers in the future. He explained the programs that the Directorate for Borders and Transportation Security is undertaking to mitigate the threat: The Container Security Initiative (CSI), the 24-hour rule, the Customs-Trade Partnership Against Terrorism (C-TPAT), and Operation Safe Commerce. U.S. Attorney Peter Hall of the District of Vermont described his participation, as co-chair of a regional Law Enforcement Coordinating Committee, in Phase One of Operation Safe Commerce, which tracked a test shipment of cargo from Slovakia to New Hampshire in a container outfitted with tracking and intrusion-detection technology. Stephen Flynn of the Council on Foreign Relations argued that the current approach is insufficient to secure the container system. He said public outcry over a major terrorist event involving a container would lead to shutting down the entire system, with catastrophic economic consequences because of widespread reliance on just-in-time inventory. Captain Jeffrey Monroe, Director of Ports and Transportation for the City of Portland, Maine, testified about the lack of Federal coordination and information provided to local port authorities. He indicated

that it was unclear to local authorities which Federal agencies had the lead in setting policy regarding container security or port security in general. He opposed consolidating container traffic into a few major ports and eliminating small feeder ports, arguing that small ports are more likely to spot anomalies in a container and that concentrating container traffic simply makes for more attractive targets.

On July 31, 2003, the Committee held a hearing on "Terrorism Financing: Origination, Organization, and Prevention." The first panel of witnesses at the hearing consisted of FBI Acting Assistant Director for Counterterrorism John Pistole and Office of Foreign Assets Control Director Richard Newcomb. They testified about the Executive Branch's efforts to combat terrorism financing. The second panel consisted of former Ambassador Dore Gold, Steven Emerson, and Jonathan Winer. Ambassador Gold testified about support for Hamas from sources inside of Saudi Arabia. Mr. Emerson testified about the support for Wahhabist extremism, largely based in Saudi Arabia. Mr. Winer testified about his experiences in the State Department attempting to address terrorism financing issues.

On September 23, 2003, the Committee held a closed hearing on "Combating Terrorist Financing: Are We on the Right Track?" Witnesses presenting classified testimony were: David Aufhauser, General Counsel, Department of Treasury; Ambassador J. Cofer Black, Coordinator for Counterterrorism, Department of State; E. Anthony Wayne, Assistant Secretary, Bureau of Economic and Business Affairs, Department of State; and John S. Pistole, Assistant Director, Counterterrorism Division, FBI. A representative from the CIA was also present to answer Members' questions.

The November 19, 2003, hearing on "Agroterrorism: The Threat to America's Breadbasket," considered the stated intentions of international terrorist organizations such as al Qaeda to wage their terror war on the United States in ways that cause maximum economic damage. America's trillion-dollar agriculture and food industry accounts for a sixth of gross domestic product and an eighth of the Nation's jobs, offering a tempting and vulnerable target. The U.S. Government Accounting Office (GAO) (renamed the U.S. Government Accountability Office after the close of the 108th Congress) estimates that an outbreak of foot-and-mouth disease at a single farm could soon spread nationwide, inflicting billions of dollars in costs for control and eradication, and billions more in losses from reduction in trade. Terrorist organizations such as al Qaeda have explored the use of easily produced toxins, such as ricin and botulinum, to poison human food. Such an attack would cause human illness and death and create public panic. Witnesses for the hearing spoke of threats to, and vulnerabilities of, the U.S. agriculture and food industry, and of steps being taken to improve security and response capabilities. Testifying were: Senator Talent of Missouri; Dr. Tom McGinn, North Carolina Department of Agriculture; Dr. Peter Chalk, RAND Corporation; Dr. Colleen O'Keefe, Illinois Department of Agriculture; Penrose Albright, Assistant Secretary for Science and Technology, DHS; Dr. Lester M. Crawford, Deputy Commissioner, Food and Drug Administration; and Dr. Charles Lambert, Deputy Under Secretary for Marketing and Regulatory Programs, U.S. Department of Agriculture.

On June 15, 2004, a Committee hearing was devoted to “An Assessment of Current Efforts to Combat Terrorism Financing.” The focus of the hearing was the second report by the Independent Task Force on Terrorism Financing, sponsored by the Council on Foreign Relations. Witnesses were David Aufhauser, former General Counsel, U.S. Department of Treasury; Lee Wolosky, Co-Director, Independent Task Force on Terrorism Financing; and Mallory Factor, Vice Chair, Independent Task Force on Terrorism Financing. Mr. Wolosky discussed the background of the report and its findings. According to Mr. Wolosky, since May 12, 2003, when al Qaeda bombed housing compounds in Riyadh used by U.S. and other foreign residents, Saudi Arabia has taken significant steps to combat terrorism financing, including new laws, regulations, and institutions governing money laundering, charitable oversight, and supervision of the formal and informal financial services sector. The task force also found, however, that Saudi Arabia has not yet fully implemented these new laws and regulations. Ms. Factor discussed the report’s recommendations, including a recommendation that Saudi Arabia fully implement its recently enacted laws and regulations pertaining to terrorism financing. In order to deter the continued financing of terrorism, the report also recommended that Saudi Arabia publicly punish those individuals and organizations that have funded terrorism. After Ms. Factor’s testimony, Mr. Aufhauser discussed the origin of Saudi extremism. He testified that while al Qaeda has been damaged, it is still extremely lethal, as it consists of autonomous cells increasingly funded through local criminal activity.

POSTAL REFORM

During the 108th Congress, the Committee pursued its longstanding and bipartisan interest in reforming the rate-making process and business flexibility of the U.S. Postal Service to put the USPS on a sustainable business footing and to make rate changes more predictable and supportable for customers. Postal-reform legislation was not enacted during the 108th Congress, but a series of hearings helped pave the way for future action:

The Committee launched its new series of inquiries on September 17, 2003, with a hearing titled, “U.S. Postal Service: What Can Be Done to Ensure Its Future Viability?” Members heard extended testimony from James A. Johnson, Co-Chair of the Presidential Commission on the U.S. Postal Service, and Vice Chairman of Perseus, L.L.C.

On November 5, 2003, the Committee held a hearing titled, “The Report of the Presidential Commission on the U.S. Postal Service: Preserving Access and Affordability.” Members heard extended testimony from two witnesses on the findings and implications of a special-commission report: John E. Potter, Postmaster General, United States Postal Service, and David M. Walker, Comptroller General, General Accounting Office (as GAO was then known, later being renamed the Government Accountability Office).

On February 4, 2004, the Committee conducted a hearing titled, “Preserving a Strong United States Postal Service: Workforce Issues.” Two panels of witnesses testified. The first panel comprised Wally Olihovik, National President, National Association of Postmasters of the United States; Steve LeNoir, President, Na-

tional League of Postmasters; and Ted Keating, Executive Vice President, National Association of Postal Supervisors. Witnesses on the second panel were John Calhoun Wells, private consultant and former Director of the Federal Mediation and Conciliation Service; James L. Medoff, Ph.D., Meyer Kestnbaum Professor of Labor and Industry, Harvard University; and Michael L. Wachter, Ph.D., Co-Director, Institute of Law and Economics, University of Pennsylvania Law School.

On February 24, 2004, the Committee conducted a second hearing on "Preserving a Strong United States Postal Service: Workforce Issues." Witness for the first panel was Dan G. Blair, Deputy Director, U.S. Office of Personnel Management. A second panel consisted of William Young, President, National Association of Letter Carriers; Dale Holton, National President, National Rural Letter Carriers; William Burrus, President, American Postal Workers Union, AFL-CIO; and John F. Hegarty, President, National Postal Mail Handlers Union.

On March 9, 2004, the Committee held a hearing titled, "Postal Reform: Sustaining the 9 Million Jobs in the \$900 Billion Mailing Industry (Day 1)." The first panel of witnesses consisted of Ann Moore, Chairman and CEO of Time, Inc., and Mark Angelson, Chairman, President, and CEO of RR Donnelley. The second panel comprised Chris Bradley, President and CEO of Cuddledown, Inc.; Max Heath, Vice President of Landmark Community Papers, on behalf of the National Newspaper Association; William Ihle, Senior Vice President for Public Relations, Bear Creek Corp.; and Shelley Dreifuss, Director, Office of the Consumer Advocate, Postal Rate Commission.

On March 11, 2004, the Committee conducted the hearing, "Postal Reform: Sustaining the 9 Million Jobs in the \$900 Billion Mailing Industry (Day 2)," featuring two panels of witnesses. The first panel consisted of Fred Smith, Chairman and CEO of FedEx, and Michael Eskew, Chairman and CEO of United Parcel Service. Witnesses for the second panel were Gary Mulloy, Chairman and CEO of ADVO, Inc.; Gary Pruitt, Chairman, President and CEO of McClatchy Company, on behalf of the Newspaper Association of America; and Robert Wientzen, President and CEO of the Direct Marketing Association.

On March 23, 2004, the Committee participated in "The Postal Service in Crisis: A Joint Senate-House Hearing on Principles for Meaningful Reform." The joint hearing at the Rayburn House Office Building heard testimony from Secretary of the Treasury John W. Snow; David Fineman, Chairman, U.S. Postal Service Board of Governors; and Postmaster General John E. Potter. Brian C. Roseboro, Acting Undersecretary for Domestic Finance, U.S. Department of Treasury, accompanied Secretary Snow.

On April 7, 2004, the Committee held a hearing titled, "Postal Reform: The Chairmen's Perspectives on Governance and Rate-Setting." Testifying were George Omas, Chairman, U.S. Postal Rate Commission, and David Fineman, Chairman, U.S. Postal Service Board of Governors. Chairman Omas was accompanied by Stephen L. Sharfman, General Counsel, U.S. Postal Rate Commission.

V. REPORTS, PRINTS, AND GAO REPORTS

During the 108th Congress, the Committee prepared and issued 37 reports and 3 prints on the following topics:

To amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes. (S. Rept. 108–35)

To amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes. (S. Rept. 108–108)

To amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies. (S. Rept. 108–109)

To establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes. (S. Rept. 108–110)

To amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes. (S. Rept. 108–112)

To amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes. (S. Rept. 108–113)

To ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security. (S. Rept. 108–115)

To strengthen and improve the management of national security, encourage government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies. (S. Rept. 108–119)

To preserve existing judgeships on the Superior Court of the District of Columbia. (S. Rept. 108–200)

To provide a site for the National Women’s History Museum in the District of Columbia. (S. Rept. 108–204)

To provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees. (S. Rept. 108–207)

To amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes. (S. Rept. 108–211)

To amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes. (S. Rept. 108–212)

To make technical corrections to the Homeland Security Act of 2002. (S. Rept. 108–214)

To provide new human capital flexibility with respect to the GAO, and for other purposes. (S. Rept. 108–216)

To establish a technology, equipment, and information transfer within the Department of Homeland Security. (S. Rept. 108–217)

To provide for reform relating to Federal employment and for other purposes. (S. Rept. 108–223)

To provide for homeland security grand coordination and simplification, and for other purposes. (S. Rept. 108–225)

To establish a servitude and emancipation archival research clearinghouse in the National Archives. (S. Rept. 108–282)

To amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for Federal employees. (S. Rept. 108–283)

To amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes. (S. Rept. 108–290)

To establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes. (S. Rept. 108–291)

To amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter. (S. Rept. 108–308)

To reform the postal laws of the United States. (S. Rept. 108–318)

To authorize the Congressional Award Act. (S. Rept. 108–339)

To provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information. (S. Rept. 108–348)

To amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act. (S. Rept. 108–349)

To enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes. (S. Rept. 108–350)

Original bill to reform the Intelligence Community and the intelligence and intelligence-related activities of the United States Government, and for other purposes. (S. Rept. 108–359)

To provide for a report of Federal entities without annually audited financial statements. (S. Rept. 108–383)

To amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes. (S. Rept. 108–392)

To amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes. (S. Rept. 108–393)

To amend the Homeland Security Act of 2002 to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes. (S. Rept. 108–408)

To ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred. (S. Rept. 108–409)

To provide for continued health benefits coverage for certain Federal employees, and for other purposes. (S. Rept. 108–410)

To amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements. (S. Rept. 108–415)

To establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of Federal, State, and local governments. (S. Rept. 108–420)

Organization of Federal Executive Departments and Agencies. Agencies and Functions of the Federal Government Established, Abolished, Continued, Modified, Reorganized, Extended, Transferred, or Changes in Name by Legislative or Executive Action During Calendar Years 2001 and 2002. (S. Prt. 108–28)

State and Local Officials: Still Kept in the Dark About Homeland Security. (S. Prt. 108–33)

Self-Dealing and Breach of Duty at ULLICO, Inc. (S. Prt. 108–45)

Also during the 108th Congress, 51 reports were issued by the GAO at the request of the Committee:

Review of the Office of Personnel Management's Analysis of the United States Postal Service's Funding of Civil Service Retirement System Costs, GAO–03–448R (January 31, 2003)

Civil Penalties: Agencies Unable to Fully Adjust Penalties for Inflation Under Current Law, GAO–03–409 (March 14, 2003)

Financial Audit: Independent Counsel Expenditures for the Six Months Ended September 30, 2002, GAO–03–445 (March 31, 2003)

U.S. Postal Service: Better Guidance Is Needed to Improve Communication Should Anthrax Contamination Occur in the Future, GAO–03–316 (April 7, 2003)

Federal Procurement: Spending and Workforce Trends, GAO–03–443 (April 30, 2003)

Smallpox Vaccination: Implementation of National Program Faces Challenges, GAO–03–578 (April 30, 2003)

Human Capital: Building on DOD's Reform Effort to Foster Governmentwide Improvements GAO–03–851T (June 4, 2003)

Privacy Act: OMB Leadership Needed to Improve Agency Compliance, GAO–03–304 (June 30, 2003)

Posthearing Questions Related to Proposed DOD Human Capital Reform, GAO–03–965R (July 3, 2003)

Federal Vacancies Reform Act: Key Elements for Agency Procedures for Complying with the Act, GAO–03–806 (July 15, 2003)

Child Welfare and Juvenile Justice: Several Factors Influence the Placement of Children Solely to Obtain Mental Health Services, GAO–03–865T (July 17, 2003)

Energy Markets: Additional Actions Would Help Ensure That FERC's Oversight and Enforcement Capability Is Comprehensive and Systematic, GAO–03–845 (August 15, 2003)

GAO's Proposed Human Capital Legislation: Views of the Employee Advisory Council, GAO-03-1162T (September 16, 2003)

GAO: Transformation Challenges, and Opportunities, GAO-03-1167T (September 16, 2003)

Electronic Rulemaking: Efforts to Facilitate Public Participation Can Be Improved, GAO-03-901 (September 17, 2003)

Rulemaking: OMB's Role in Reviews of Agencies' Draft Rules and the Transparency of Those Reviews, GAO-03-929 (9/22/2003)

Breast Cancer Research Stamp: Effective Fund-Raiser But Better Reporting and Cost-Recovery Criteria Needed, GAO-03-1021 (September 30, 2003)

Financial Management: Sustained Efforts Needed to Achieve FFMIA Accountability, GAO-03-1062 (September 30, 2003)

Federal Real Property: Actions Needed to Address Long-standing and Complex Problems, GAO-04-119T (October 10, 2003)

Office of Personnel Management: Health Insurance Premium Conversion, GAO-04-168R (October 20, 2003)

U.S. Postal Service: Bold Action Needed to Continue Progress on Postal Transformation, GAO-04-108T (November 5, 2003)

Travel Cards: Internal Control Weaknesses at DOD Led to Improper Use of First and Business Class Travel, GAO-04-229T (November 6, 2003)

Electricity Restructuring: 2003 Blackout Identifies Crisis and Opportunity for the Electricity Sector, GAO-04-204 (November 18, 2003)

Bioterrorism: A Threat to Agriculture and the Food Supply, GAO-04-259T (November 19, 2003)

Postal Pension Funding Reform: Issues Related to the Postal Service's Proposed Use of Pension Savings, GAO-04-238 (November 26, 2003)

Postal Pension Funding Reform: Review of Military Service Funding Proposals, GAO-04-281 (November 26, 2003)

Smallpox Vaccination: Review of the Implementation of the Military Program, GAO-04-15R (December 1, 2003)

Need for Comprehensive Postal Reform, GAO-04-455R (February 6, 2004)

Human Capital: Preliminary Observations on Proposed DHS Human Capital Regulations, GAO-04-479T (February 25, 2004)

Contract Management: Agencies Can Achieve Significant Savings on Purchase Card Buys, GAO-04-430 (March 12, 2004)

U.S. Postal Service Key Reasons for Postal Reform, GAO-04-565T (March 23, 2004)

Agencies' Use of Procurement Flexibilities Provided in the Homeland Security Act of 2002 (P.L. 107-296), GAO-04-447R (March 31, 2004)

Purchase Cards: Increased Management Oversight and Control Could Save Hundreds of Millions of Dollars, GAO-04-717T (April 28, 2004)

Diploma Mills: Federal Employees Have Obtained Degrees From Diploma Mills and Other Unaccredited Schools, Some at Government Expense, GAO-04-771T (May 11, 2004)

Federal Acquisition: Increased Attention to Vehicle Fleets Could Result in Savings, GAO-04-664 (May 25, 2004)

Aviation Security: Further Steps Needed to Strengthen the Security of Commercial Airport Perimeters and Access Controls, GAO-04-728 (June 4, 2004)

DOD Travel Cards: Control Weaknesses Resulted in Millions of Dollars of Improper Payments, GAO-04-576 (June 9, 2004)

DOD Travel Cards: Control Weaknesses Led to Millions in Fraud, Waste, and Improper Payments, GAO-04-825T (June 9, 2004)

Internet Pharmacies: Some Pose Safety Risks for Consumers and Are Unreliable in Their Business Practices, GAO-04-888T (June 17, 2004)

Federal Aircraft: Inaccurate Cost Data and Weaknesses in Fleet Management Planning Hamper Cost Effective Operations, GAO-04-645 (June 18, 2004)

International Taxation: Tax Haven Companies Were More Likely to Have a Tax Cost Advantage in Federal Contracting, GAO-04-856 (June 30, 2004)

U.S. Postal Service: USPS Needs to Clearly Communicate How Postal Services May Be Affected by Its Retail Optimization Plans, GAO-04-803 (July 13, 2004)

Financial Management: Department of Homeland Security Faces Significant Financial Management Challenges, GAO-04-774 (July 19, 2004)

Electricity Markets: Consumers Could Benefit from Demand Programs, But Challenges Remain, GAO-04-844 (August 13, 2004)

U.S. Postal Service: Better Guidance Is Needed to Ensure an Appropriate Response to Anthrax Contamination, GAO-04-239 (September 9, 2004)

Best Practices: Using Spend Analysis to Help Agencies Take a More Strategic Approach to Procurement, GAO-04-870 (September 16, 2004)

No Child Left Behind Act: Additional Assistance and Research on Effective Strategies Would Help Small Rural Districts, GAO-04-909 (September 23, 2004)

Financial Management: Improved Financial Systems Are Key to FFMIA Compliance, GAO-05-20 (October 1, 2004)

U.S. Postal Service: Physical Security Measures Have Increased at Some Core Facilities, but Security Problems Continue, GAO-05-48 (November 16, 2004)

Electronic Government: Federal Agencies Have Made Progress Implementing the E-Government Act of 2002, GAO-05-12 (December 10, 2004)

Homeland Security: Further Action Needed to Promote Successful Use of Special DHS Acquisition Authority, GAO-05-136 (December 15, 2004)

VI. OFFICIAL COMMUNICATIONS

During the 108th Congress, 1,023 official communications were referred to the Committee. Of these, 1,005 were Executive Communications, 16 were Petitions or Memorials, two were Presidential Messages. Reports on District of Columbia legislation accounted for 390 of the official communications.

VII. LEGISLATIVE ACTIONS

During the 108th Congress, the Committee reported significant legislation—most notably, the sweeping reform of the national intelligence apparatus—that was approved by Congress and signed into law by the President.

The following are brief legislative histories of measures referred to the Committee and, in some cases, drafted by the Committee, which (1) became public law or (2) were favorably reported from the Committee and passed by the Senate, but did not become law. In addition to the measures listed below, the Committee received during the 108th Congress numerous legislative proposals that were not considered or reported, or that were reported but not passed by the Senate. Additional information on these measures appears in the Committee's Legislative Calendar for the 108th Congress, S. Prt. 108–61, Government Printing Office (December 31, 2004).

MEASURES ENACTED INTO LAW

S. 380—To amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes. (Public Law 108–18)

This legislation amends Federal civil service law to revise the statutory formula for funding benefits under the Civil Service Retirement System for U.S. Postal Service employees using dynamic rather than static assumptions, and requires (1) when computing actuarial present value of future benefits, taking account of the full value of benefits attributable to military and volunteer service for Postal Service employees first employed after June 30, 1971, and a prorated share for Postal Service employees first employed before that date; and (2) computing interest at the rate used in the most recent dynamic actuarial valuation of the Civil Service Retirement System when creating amortization schedules for liquidation of Postal supplemental pension benefit liability. The legislation requires that savings accruing to the Postal Service from these changes and attributable to Fiscal Years (FY) 2003 and 2004 be used to reduce the postal debt, and prohibits the Postal Service from incurring additional debt to offset the use of the savings to reduce the postal debt in FY 2003 and 2004. It further requires that: (1) savings attributable to FY 2005 be used to continue holding postage rates unchanged and to reduce the postal debt; and (2) savings attributable to any fiscal year after FY 2005 be considered Postal Service operating expenses and, until otherwise provided for by law, be held in escrow and not be obligated or expended.

S. 380 was introduced by Senator Collins on February 12, 2003, with 23 cosponsors. It was reported out of Committee on April 1, 2003, by Senator Collins with an amendment in the nature of a substitute, and without a written report. It passed the Senate with an amendment by Unanimous Consent on April 2, 2003. The House passed the bill by a 424–0 roll-call vote on April 8, 2003, on which date Senator Collins filed the written report, S. Rept. 108–35. The Postal Civil Service Retirement System Funding Reform Act of 2003 was signed into law by the President on April 23, 2003.

S. 678—To amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes. (Public Law 108–86)

This legislation amends Federal law to authorize an organization (other than one representing supervisors) that represents at least 20 percent of certain postmasters to participate directly in planning and developing pay policies and schedules, fringe-benefit programs, and other programs relating to supervisory and other managerial employees. It grants postmasters and postmasters' organizations the same consultation and other rights afforded to supervisors and supervisors' organizations. The legislation provides that if two or more postmasters' organizations exist, they shall: (1) be treated as if they constituted a single organization and in accordance with such arrangements as they may agree upon; and (2) in the case of any fact-finding panel convened by the Federal Mediation and Conciliation Service at the organizations' request, be jointly and severally liable for the cost of such panel, apart from the portion to be borne by the Service.

S. 678 was introduced in the Senate on March 20, 2003, by Senator Akaka, with 39 cosponsors. It was reported from the Committee by Senator Collins on July 25, 2003, with an amendment in the nature of a substitute, and with written report, S. Rept. 108–112. It passed the Senate with an amendment by Unanimous Consent on July 29, 2003, and passed the House by a 426–0 vote under suspension of rules on September 16, 2003. The Postmasters Equity Act of 2003 was signed into law by the President on September 30, 2003.

S. 926—To amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies. (Public Law 108–123)

This legislation increases the annual and aggregate limits (to \$10,000 and \$60,000, respectively) on the amount of an employee's student loan an agency may repay.

S. 926 was introduced in the Senate on April 28, 2003, by Senator Voinovich, with one cosponsor. It was reported out of Committee by Senator Collins on July 21, 2003, without amendment, and with written report, S. Rept. 108–109. Additional views were filed. It passed the Senate by Unanimous Consent on July 30, 2003, and passed the House by voice vote on October 28, 2003. The Federal Employee Student Loan Assistance Act was signed by the President on November 11, 2003.

H.R. 3054—To amend the Policemen and Firemen's Retirement and Disability Act to permit military service previously performed by members and former members of the Metropolitan Police Department of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police, and the United States Secret Service Uniformed Division to count as creditable service for purposes of calculating retirement annuities payable to such members upon payment of a contribution by such members, and for other purposes. (Public Law 108–133)

This legislation amends the Policemen and Firemen's Retirement and Disability Act to permit a member or former member of the

District of Columbia Metropolitan Police force, the District of Columbia Fire Department, the United States Park Police force, and the U.S. Secret Service to count previously performed military service as creditable service for purposes of calculating the retirement annuity payable to such member. To qualify, the member or former member must pay the member's employment office (or former member's appropriate benefits administration) an amount equal to 7 percent of the military basic pay paid to the member for each period of military service after December 1956, with payment to be completed before the member's date of retirement, or October 1, 2006, whichever is later.

H.R. 3054 was introduced in the House on September 10, 2003, by Representative T. Davis of Virginia, with seven cosponsors. The bill, as amended, was agreed to in the House by voice vote on October 8, 2003. It was discharged by Unanimous Consent of the Senate from the Committee on November 11, 2003, and passed without amendment that same day by Unanimous Consent. The District of Columbia Military Retirement Equity Act of 2003 was signed by the President on November 22, 2003.

S.J. Res. 18—A joint resolution commending the Inspectors General for their efforts to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government during the past 25 years. (Public Law 108-139)

This resolution recognizes the Inspectors General for, and commends their role in, preventing and detecting waste, fraud, abuse, and mismanagement and promoting economy, efficiency, and effectiveness in Federal programs and operations.

S.J. Res. 18 was introduced in the Senate on September 29, 2003, by Senator Collins, with eight cosponsors. It was discharged by Unanimous Consent from the Committee on October 14, 2003, and passed the Senate without amendment by Unanimous Consent that same day; the House passed the resolution on a 326-3 roll call on November 17, 2003. The President signed the resolution on December 1, 2003.

S. 1683—To provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees. (Public Law 108-196)

This legislation requires the Office of Personnel Management to report to the President of the Senate, the Speaker of the House of Representatives, and appropriate congressional committees and subcommittees on: (1) a comparison of classifications, pay, and benefits among Federal law enforcement officers; and (2) recommendations for ensuring the elimination of disparities in such classifications, pay, and benefits. It directs the President to establish an employee exchange program between Federal agencies that perform law enforcement functions and State and local agencies that perform such functions.

S. 1683 was introduced in the Senate on September 30, 2003, by Senator Voinovich, with one cosponsor. It was reported from Committee by Senator Collins without amendment on November 22,

2003, and with written report, S. Rept. 108–207. It passed the Senate without amendment by Unanimous Consent on November 25, 2003. Discharged from the House Committee on Government Reform and considered on December 8, 2003, it passed the House without objection that same day. The Federal Law Enforcement Pay and Benefits Parity Act of 2003 was signed by the President on December 19, 2003.

S. 610—To amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes. (Public Law 108–201)

This legislation amends the National Aeronautics and Space Act of 1958 to provide the Administrator of the National Aeronautics and Space Administration (NASA) authority to compensate certain excepted personnel at the basic rate payable for level III of the Executive Schedule. It amends Federal employee provisions to establish separate workforce authorities and personnel provisions for NASA. It requires the NASA Administrator, before exercising any such authorities, to submit to specified congressional committees a written workforce plan and to obtain plan approval from the Office of Personnel Management (OPM), and establishes requirements for the plan. It requires plans to be submitted to NASA employee representatives and requires the Administrator to give recommendations from such representatives full and fair consideration. It requires: (1) the current workforce plan to be submitted to the Office of Management and Budget whenever a NASA performance plan is so submitted for any year; and (2) the Administrator, within 6 years, to submit to the Committees on Government Reform, Science, and Appropriations of the House of Representatives and the Committees on Governmental Affairs, Commerce, Science, and Transportation of the Senate an evaluation and analysis of the actions taken under this section. The legislation includes the authority to: (1) pay recruitment, redesignation, relocation, and retention bonuses in exchange for service agreements; (2) make term appointments of one to 6 years and permanent conversions; (3) fix basic rates of pay for critical positions; and (4) extend intergovernmental personnel act assignments to up to 4 years. It also directs and sets rules for the Administrator to establish a NASA Science and Technology Scholarship Program to award scholarships to individuals in return for contractual agreements under which such individuals agree to serve as full-time NASA employees for 2 years for each year of such scholarships. It authorizes the Administrator to appoint directly to the General Schedule of Compensation for Federal Employees in GS–7 through GS–12 positions individuals in professional and research fields who meet specified educational requirements. Provides for the consideration of veterans' preference eligibles who meet the criteria for appointment ahead of non-preference eligibles and requires public notice of vacancies. Other provisions include authorizing the Administrator to pay the travel, transportation, and relocation expenses of certain new appointees to the same extent and in the same manner as the payment of such expenses for transferred employees; allowing the Administrator to deem a period of qualified non-Federal career service of an individual as an equal period of service performed as a Federal em-

employee for purposes of annual leave eligibility; and permitting appointment of limited SES appointees to career reserved positions as long as the limited appointee, immediately before the limited appointment, was serving under a career or career-conditional appointment outside the SES (or an appointment of equivalent tenure). The Act requires the Administrator to submit to appropriate committees, not later than February 28 of each of the next 6 years, a report on the effectiveness of exercising such separate workforce authorities.

S. 610 was introduced in the Senate by Senator Voinovich, with nine cosponsors, on March 13, 2003. Senator Collins reported it from Committee with an amendment in the nature of a substitute on July 28, 2003, with written report, S. Rept. 108–113. Additional views were filed. The Senate passed it with an amendment by Unanimous Consent on November 24, 2003. It was passed in the House by voice vote on January 28, 2004. The NASA Workforce Flexibility Act of 2003 was signed by the President on February 24, 2004.

H.R. 2751—To provide new human capital flexibilities with respect to the GAO, and for other purposes. (Public Law 108–271)

This legislation amends Federal law to make permanent: (1) the entitlement of certain U.S. General Accounting Office (GAO) officers and employees who separate from service voluntarily to receive annuities under the Civil Service Retirement System or the Federal Employees' Retirement System, and (2) authority of the Comptroller General to provide voluntary separation incentive payments to GAO employees. It authorizes the Comptroller General, under specified conditions, to adjust annually the basic rates of GAO officers and employees whose performance is at a satisfactory level, and provides the same authority under the same conditions with respect to Senior Executive Service officers and employees. It requires the Comptroller General to prescribe regulations under which a GAO: (1) officer or employee shall be entitled to pay retention if any reduction in force or other workforce adjustment, position reclassification, or other appropriate circumstances place an officer or employee in a lower grade or band with a maximum rate of basic pay less than the rate of basic pay payable to the officer or employee immediately before the reduction; (2) officer or employee may, in appropriate circumstances, be reimbursed for certain relocation expenses for which they would not otherwise be eligible; and (3) key officer or employee with less than 3 years of service may accrue 6 hours of annual leave biweekly in those circumstances appropriate for his or her recruitment or retention. It authorizes the Comptroller General to establish by regulation an executive-exchange program under which GAO officers and employees may be assigned to private sector organizations, and employees of private sector organizations may be assigned to GAO to further the institutional interests of GAO or Congress. The Act renames the U.S. General Accounting Office as the U.S. Government Accountability Office. It modifies requirements of the GAO personnel management system to include: (1) a link between the performance management system and the agency's strategic plan; (2) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the system; (3) a process

for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period and setting timetables for review; (4) effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable, including appropriate independent reasonableness, reviews, internal assessments, and employee surveys; and (5) a means to ensure that adequate agency resources are allocated for the design, implementation, and administration of the system. It requires the Comptroller General to include in GAO's annual report to Congress, during the 5-year period beginning on the enactment of this Act, a summary review of actions taken with respect to: (1) GAO's permanent authority to offer voluntary early retirements and voluntary separation payments to certain officers and employees; (2) annual pay adjustments; (3) pay retention; (4) increased annual leave for key employees; (5) the executive exchange program; (6) the performance management system; and (7) GAO's consultation with interested groups or associations that represent GAO employees before the implementation of any changes authorized under this Act.

H.R. 2751 was introduced in the House on July 16, 2003, by Representative J. Davis of Virginia, with two cosponsors. It was reported as amended by the House Committee on Government Reform on November 19, 2003, with written report, H. Rept. 108-380. The House passed the bill on a roll call of 382-43 on February 25, 2004. The Senate discharged it without amendment from Committee on June 24, 2004, and the Senate passed it without amendment by Unanimous Consent that same day. The GAO Human Capital Reform Act of 2004 was signed by the President on July 7, 2004.

H.R. 1303—To amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference. (Public Law 108-281)

This legislation amends the E-Government Act of 2002 to provide for court rules allowing parties in a Federal court proceeding to file under seal a reference list that would include both a complete and partially redacted version of protected information (e.g., Social Security numbers and credit-card account numbers) contained in pleadings. It specifies that such rules: (1) provide that all references in a case to redacted data shall be construed to refer to the unredacted information in the sealed reference list; and (2) allow parties to file unredacted exhibits or other evidentiary matter under seal for evidentiary purposes.

H.R. 1303 was introduced in the House on March 18, 2003, by Representative L. Smith of Texas, with one cosponsor. The House Committee on Judiciary reported it with amendment on July 25, 2003, and with written report, H. Rept. 108-239. The House passed the bill by voice vote on October 7, 2003. After an exchange of papers with the House and vitiation of a previous report, the bill was discharged from the Committee on Governmental Affairs by Unanimous Consent of the Senate on July 7, 2004, and passed without amendment by Unanimous Consent that same day. The Act to Amend the E-Government Act of 2002 with Respect to Rulemaking Authority of the Judicial Conference was signed by the President on August 2, 2004.

H.R. 4259—To amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes. (Public Law 108–330)

This legislation amends the Chief Financial Officer Act of 1990 and the Homeland Security Act of 2002 to direct the President to appoint a Chief Financial Officer (CFO) for the DHS, who is to report directly to the Secretary of DHS and to the Under Secretary for Management; it also removes the Federal Emergency Management Agency (FEMA) from the list of agencies required to have a CFO. The Act amends the Reports Consolidation Act of 2000 to instruct the Secretary of DHS to: (1) submit a specified performance and accountability report, including an audit opinion of DHS internal controls over its financial reporting; and (2) design and implement DHS-wide management controls that reflect the national homeland security strategy of the Homeland Security Act of 2002, and that permit assessment by Congress and DHS managers of DHS performance in executing such strategy. Other provisions: Require performance and accountability reports for fiscal years after 2005 to include an assertion of the internal controls that apply to financial reporting by the DHS, and amend the Homeland Security Act of 2002 to require the Future Years Homeland Security Program to include certain kinds and forms of information, set forth the homeland-security strategy used to develop program planning guidance, and explain how the resource allocations in the Program correlate to homeland security strategy. The Act instructs the Secretary to establish an Office of Program Analysis and Evaluation, Creates the position of Director of Program Analysis and Evaluation, and requires the CFO of DHS to notify simultaneously specified congressional committees whenever appropriations earmarked for DHS are either transferred or reprogrammed.

H.R. 4259 was introduced in the House by Representative Platts of Pennsylvania on May 4, 2004. The House Committee on Government Reform reported it on June 9, 2004, with written report, H. Rept. 108–533, Part I; on that same day, the House Committee on Homeland Security (Select) discharged the bill. It passed the House by voice vote on July 20, 2004. By Unanimous Consent of the Senate, the bill was discharged from Committee and passed without amendment on September 29, 2004. The Department of Homeland Security Financial Accountability Act was signed by the President on October 16, 2004.

H.R. 3478—To amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission. (Public Law 108–383)

This legislation requires the Archivist of the United States to promulgate regulations establishing a streamlined process for extending agency records retention periods beyond those periods specified in disposal schedules; authorizes the Records Center Revolving Fund of the Treasury to cover expenses for uniforms for National Archives and Records Administration (NARA) personnel; authorizes the Archivist to collect reasonable fees for the occasional, non-official use of NARA facilities and related services by the pub-

lic and to use such fees for educational and public program purposes; authorizes the Archivist to enter into cooperative agreements that involve the transfer of NARA funds to State and local governments, other public entities, educational institutions, or private nonprofit organizations to carry out NARA programs; and authorizes appropriations to the National Historical Publications and Records Commission for FY 2006 through 2009 for the Commission to carry out its duties and for the Archivist to make grants to State and local agencies and to nonprofit organizations, institutions, and individuals for historical publications and records programs.

H.R. 3478 was introduced in the House on November 7, 2003, by Representative Putnam of Florida, with one cosponsor. It was reported by the Committee on Government Reform on December 8, 2003, with written report, H. Rept. 108–403. The House passed the bill, as amended, by voice vote on September 13, 2004. By Unanimous Consent of the Senate, the bill was discharged from the Committee on Governmental Affairs and passed without amendment on October 11, 2004. The President signed the National Archives and Records Administration Efficiency Act on October 30, 2004.

H.R. 3797—To authorize improvements in the operations of the government of the District of Columbia, and for other purposes. (Public Law 108–386)

This legislation amends the District of Columbia Home Rule Act to require the Board of Education, by March 1 of each year or the date on which the Mayor of the District of Columbia makes the proposed annual budget for a year available (whichever occurs later), to submit to the District Council a plan for the allocation of the Mayor’s proposed budget among various object classes and responsibility centers. It also amends the District of Columbia Code to authorize the District’s Executive Officer, under certain conditions, to enter into: (1) a contract for procurement of severable services in the same manner and to the same extent as the head of an executive agency may enter into such a contract under the Federal Property and Administrative Services Act of 1949; (2) a lease agreement for the accommodation of the District of Columbia courts in a building which is in existence or being erected by the lessor to accommodate them; and (3) a multiyear contract for the acquisition of property or services in the same manner and to the same extent as an executive agency may enter into such a contract under the Act. Other provisions affect fiscal years for the Armory Board, the DC Public Schools, and the University of the District of Columbia; revise the deadline for Council adoption of the annual budget for District government; revise overtime requirements under the Fair Labor Standards Act for certain District government employee hours; and amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 regarding disciplinary action. The Act also amends the Federal Deposit Insurance Act, National Housing Act, Bank Holding Company Act, Bank Protection Act of 1968, Depository Institution Management Interlocks Act, Securities Exchange Act of 1934, the Federal Reserve Act, and the National Bank Receivership Act to provide for regulation of District of Columbia-chartered banks by the Federal Deposit Insurance Corporation in lieu of the Office of the Comptroller.

H.R. 3797 was introduced in House on February 11, 2004, by Representative T. Davis of Virginia, with one cosponsor. The House Committee on Government Reform reported it on June 17, 2004, with written report, H. Rept. 108–551, Part I. The bill was discharged from the House Committee on Education and the Workforce and the Committee on Financial Services on June 17, 2004, and passed the House by voice vote on June 21, 2004. By Unanimous Consent of the Senate, it was discharged from the Committee and passed without amendment on October 11, 2004. The 2004 District of Columbia Omnibus Authorization Act was signed by the President on October 30, 2004.

S. 129—A bill to provide for reform relating to Federal employment, and for other purposes. (Public Law 108–411)

This legislation comprises three titles. Title I contains reforms relating to Federal human-capital management, including: Amending Federal employment law to allow the Office of Personnel Management (OPM) to authorize the head of a Federal agency to pay, in defined circumstances, a recruitment or relocation bonus to an individual appointed, moved, or relocated to a position that could otherwise be difficult to fill; allows OPM to authorize an agency head to pay an employee-retention bonus under defined circumstances; requires annual reports for 5 years on bonuses paid under this Act; and allows OPM, upon the request of a Federal agency, to grant authority for such agency to fix the rates of basic pay for critical positions in such agency. Title II affects Federal employee career-development and benefits. Provisions include: Requiring each agency head to evaluate its training against performance plans and strategic goals, to appoint a training officer, to establish a comprehensive management-succession program, and provide special training to managers for dealing with employees with unacceptable performances; authorizing annual leave for newly hired Federal employees with relevant, qualified non-Federal experience; and requiring Senior Executive Service positions to receive the maximum authorized biweekly annual leave (8 hours); and requiring Federal agencies to provide employees compensatory time off for time spent in travel status away from their official duty stations, to the extent such time is not otherwise compensable. The pay-administration provisions of Title III include: Amending Federal employment law on pay comparability, and including the position of Administrator of the Office of Electronic Government as a Level III Executive Schedule position.

S. 129 was introduced in the Senate on January 9, 2003, by Senator Voinovich. Senator Collins reported it with an amendment in the nature of a substitute on January 27, 2004, with written report, S. Rept. 108–223. The bill passed the Senate with an amendment by Unanimous Consent on April 8, 2004. It was reported, amended, by the House Committee on Government Reform on October 5, 2004, with written report, H. Rept. 108–733, and passed the House by voice vote on October 6, 2004. Following Senate acceptance of the House amendment, the Federal Workforce Flexibility Act of 2004 was signed by the President on October 30, 2004.

H.R. 4012.—To amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act. (Public Law 108–457)

This legislation amends the District of Columbia Access Act of 1999 to authorize the public school and private school tuition assistance programs established under the Act through FY 2007.

H.R. 4012 was introduced in the House on March 23, 2004, by Representative T. Davis of Virginia, with one cosponsor. The House Committee on Government Reform reported it with written report, H. Rept. 108–527 on June 8, 2004. The House passed the bill, as amended, by voice vote on July 14, 2004. Senator Collins reported the bill without amendment or written report on July 22, 2004. The Senate passed it with an amendment and an amendment to the title by Unanimous Consent on November 24, 2004. Following House acceptance of the Senate amendment, the Act was signed by the President on December 17, 2004.

S. 2657.—To amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes. (Public Law 108–496)

This legislation provides for establishing programs through which current and retired Federal employees and their family members and dependents may obtain enhanced dental and vision benefits to supplement those available under the Federal Employees Health Benefits Program (FEHB). It directs the Office of Personnel Management to submit a report to Congress describing and evaluating options whereby health insurance coverage under FEHB could be made available to unmarried dependent children under 25 years of age who are enrolled as full-time students at institutions of higher education.

S. 2657 was introduced in the Senate on July 14, 2004, by Senator Collins, with five cosponsors. Senator Collins reported it without amendment and with written report, S. Rept. 108–393 on October 8, 2004. The Senate passed the bill with an amendment by Unanimous Consent on November 20, 2004. It passed the House by voice vote on December 6, 2004. The Federal Employee Dental and Vision Benefits Enhancement Act of 2004 was signed by the President on December 23, 2004.

S. 2845.—To reform the Intelligence Community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

This legislation was the first comprehensive reform of the Intelligence Community in half a century. Its text is extensive, so only broad summaries of component titles is presented here. See the discussion under “Highlights of Activities: Intelligence Reform” in part I of this Report. Title I involves reform of the Intelligence Community, including establishing the position of DNI, and assigning numerous responsibilities including oversight of a new NCTC. This title also establishes a National Intelligence Center, an Information Sharing Council, a National Counter Proliferation Center, and a

Privacy and Civil Liberties Oversight Board within the Executive Office of the President. Title II contains provisions affecting the FBI and its Director that are intended to improve the intelligence capabilities of the FBI and to develop and maintain within the FBI a national intelligence workforce. Title III directs the President to select a single executive branch department, agency, or element to be responsible for security clearances and investigations, and adds other requirements and directives in that area. Title IV requires the Secretary of Homeland Security to: (1) develop and implement a National Strategy for Transportation Security and transportation modal security plans; and (2) submit such plans and periodic progress reports to appropriate congressional committees. Title V comprises measures relating to border protection, immigration, and visas, including pilot programs for advanced technologies, increased staffing levels for Border Patrol agents and immigration and customs enforcement investigators. Title VI comprises terrorism-prevention measures involving money laundering and terrorist financing, reports on cross-border electronic transmittals of funds, background checks of private security officers, grand jury information sharing, and revising laws on terrorist access to destructive weapons. Title VII includes numerous measures to implement recommendations of the 9/11 Commission. Title VIII deals with assorted matters including information sharing between the elements of the Intelligence Community and the National Infrastructure Simulation and Analysis Center, coordination of DHS geospatial information needs, protections for civil rights and civil liberties, and information technology planning.

S. 2845 was introduced (then as S. 2840) in the Senate on September 23, 2004, by Senator Collins, with 10 cosponsors. The Senate passed the bill with amendments by a 96–2 vote on October 6, 2004. On October 16, 2004, under provisions of H. Res. 827, S. 2845 was considered to have passed House as amended. Following disagreement on the House amendment, conferees from each Chamber met and filed conference report H. Rept. 108–796 on December 7, 2004. The House agreed to the conference report by a 336–75 vote on that same day; the Senate agreed to the conference report by an 89–2 vote on December 8, 2004. The President signed the Intelligence Reform and Terrorism Prevention Act of 2004 on December 17, 2004. (Public Law 108–458)

POSTAL NAMING BILLS

H.R. 1505, a bill to designate the facility of the United States Postal Service located at 2127 Beatties Ford Road in Charlotte, North Carolina, as the “Jim Richardson Post Office.” (Public Law 108–17).

H.R. 1625, a bill to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the “Robert P. Hammer Post Office Building.” (Public Law 108–33).

H.R. 825, a bill to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the “Michael J. Healy Post Office Building.” (Public Law 108–46).

H.R. 917, a bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington,

South Carolina, as the “Floyd Spence Post Office Building.” (Public Law 108–47).

H.R. 925, a bill to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the “Cesar Chavez Post Office.” (Public Law 108–48).

H.R. 981, a bill to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the “James R. Merry Post Office.” (Public Law 108–49).

H.R. 985, a bill to designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the “Delbert L. Latta Post Office Building.” (Public Law 108–50).

H.R. 1055, a bill to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the “Dr. Roswell N. Beck Post Office Building.” (Public Law 108–51).

H.R. 1368, a bill to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the “Norman D. Shumway Post Office Building.” (Public Law 108–52).

H.R. 1465, a bill to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the “General Charles Gabriel Post Office.” (Public Law 108–53).

H.R. 1596, a bill to designate the facility of the United States Postal Service located at 2318 Woodson Road in St. Louis, Missouri, as the “Timothy Michael Gaffney Post Office Building.” (Public Law 108–54).

H.R. 1609, a bill to redesignate the facility of the United States Postal Service located at 201 West Boston Street in Brookfield, Missouri, as the “Admiral Donald Davis Post Office Building.” (Public Law 108–55).

H.R. 1740, a bill to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the “Dr. Caesar A.W. Clark, Sr. Post Office Building.” (Public Law 108–56).

H.R. 2030, a bill to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the “Patsy Takemoto Mink Post Office Building.” (Public Law 108–57).

S. 1399, a bill to redesignate the facility of the United States Postal Service located at 101 South Vine Street in Glenwood, Iowa, as the “William J. Scherle Post Office Building.” (Public Law 108–65).

H.R. 1761, a bill to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the “Garner E. Shriver Post Office Building.” (Public Law 108–71).

H.R. 2826, a bill to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the “Roberto Clemente Walker Post Office Building.” (Public Law 108–97).

S. 1591, a bill to redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as

the “Edward O’Grady, Waverly Brown, Peter Paige Post Office Building.” (Public Law 108–103).

H.R. 1610, a bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the “Walt Disney Post Office Building.” (Public Law 108–110).

H.R. 1882, a bill to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the “Arthur ‘Pappy’ Kennedy Post Office.” (Public Law 108–111).

H.R. 2075, a bill to designate the facility of the United States Postal Service located at 1905 West Blue Heron Boulevard in West Palm Beach, Florida, as the “Judge Edward Rodgers Post Office Building.” (Public Law 108–112).

H.R. 2254, a bill to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the “Bruce Woodbury Post Office Building.” (Public Law 108–113).

H.R. 2309, a bill to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the “Stephen Horn Post Office Building.” (Public Law 108–114).

H.R. 2328, a bill to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the “Robert A. Borski Post Office Building.” (Public Law 108–115).

H.R. 2396, a bill to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California, as the “Francisco A. Martinez Flores Post Office.” (Public Law 108–116).

H.R. 2452, a bill to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the “Brian C. Hickey Post Office Building.” (Public Law 108–117).

H.R. 2533, a bill to designate the facility of the United States Postal Service located at 10701 Abercom Street in Savannah, Georgia, as the “J.C. Lewis, Jr. Post Office Building.” (Public Law 108–118).

H.R. 2746, a bill to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the “Barbara B. Kennelly Post Office Building.” (Public Law 108–119).

H.R. 3011, a bill to designate the facility of the United States Postal Service located at 135 East Olive Avenue in Burbank, California, as the “Bob Hope Post Office Building.” (Public Law 108–120).

H.R. 1883, a bill to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the “Eddie Mae Steward Post Office.” (Public Law 108–124).

S. 1590, a bill to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the “James E. Davis Post Office Building.” (Public Law 108–141).

S. 867, a bill to designate the facility of the United States Postal Service located at 710 Wick Lane in Billings, Montana, as the “Ronald Reagan Post Office Building.” (Public Law 108–143).

S. 1718, a bill to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the “Senator James B. Pearson Post Office.” (Public Law 108–144).

H.R. 2744, a bill to designate the facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, as the “David Bybee Post Office Building.” (Public Law 108–149).

H.R. 3175, a bill to designate the facility of the United States Postal Service located at 2650 Cleveland Avenue, NW in Canton, Ohio, as the “Richard D. Watkins Post Office Building.” (Public Law 108–150).

H.R. 3379, a bill to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the “Francis X. McCloskey Post Office Building.” (Public Law 108–151).

H.R. 1822, a bill to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the “Dosan Ahn Chang Ho Post Office.” (Public Law 108–239).

H.R. 2130, a bill to redesignate the facility of the United States Postal Service located at 650 Kinderkamack Road in River Edge, New Jersey, as the “New Bridge Landing Post Office.” (Public Law 108–240).

H.R. 2438, a bill to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the “Major Henry A. Commiskey, Sr. Post Office Building.” (Public Law 108–241).

H.R. 3029, a bill to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the “S. Truett Cathy Post Office Building.” (Public Law 108–242).

H.R. 3059, a bill to designate the facility of the United States Postal Service located at 304 West Michigan Street in Stuttgart, Arkansas, as the “Lloyd L. Burke Post Office” (Public Law 108–243).

H.R. 3068, a bill to designate the facility of the United States Postal Service located at 2055 Siesta Drive in Sarasota, Florida, as the “Brigadier General (AUC-Ret.) John H. McLain Post Office” (Public Law 108–244).

H.R. 3175, a bill to designate the facility of the United States Postal Service located at 2650 Cleveland Avenue, NW in Canton, Ohio, as the “Richard D. Watkins Post Office Building” (Public Law 108–150).

H.R. 3234, a bill to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the “Ben R. Gerow Post Office Building” (Public Law 108–245).

H.R. 3300, a bill to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the “Walter F. Ehrnfelt, Jr. Post Office Building” (Public Law 108–246).

H.R. 3340, a bill to redesignate the facility of the United States Postal Service located at 7715 and 7748 S. Cottage Grove Avenue

in Chicago, Illinois, as the “James E. Worsham Post Office” and the “James E. Worsham Carrier Annex Building,” respectively, and for other purposes (Public Law 108–294).

H.R. 3353, a bill to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the “George Henry White Post Office Building” (Public Law 108–247).

H.R. 3379, a bill to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the “Francis X. McCloskey Post Office Building” (Public Law 108–151).

H.R. 3536, a bill to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the “Army Staff Sgt. Lincoln Hollinsaid Malden Post Office” (Public Law 108–248).

H.R. 3537, a bill to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the “Army Pvt. Shawn Pahnke Manhattan Post Office” (Public Law 108–249).

H.R. 3538, a bill to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the “Marine Capt. Ryan Beaupre Saint Anne Post Office” (Public Law 108–250).

H.R. 3690, a bill to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the “Barber Conable Post Office Building” (Public Law 108–251).

H.R. 3733, a bill to designate the facility of the United States Postal Service located at 410 Huston Street in Altamont, Kansas, as the “Myron V. George Post Office” (Public Law 108–252).

H.R. 3740, a bill to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the “Oscar Scott Woody Post Office Building” (Public Law 108–253).

H.R. 3769, a bill to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the “Ben Atchley Post Office Building” (Public Law 108–254).

H.R. 3855, a bill to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the “General John J. Pershing Post Office” (Public Law 108–255).

H.R. 3917, a bill to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the “Maxine S. Postal United States Post Office” (Public Law 108–256).

H.R. 3939, a bill to redesignate the facility of the United States Postal Service located at 14–24 Abbott Road in Fair Lawn, New Jersey, as the “Mary Ann Collura Post Office Building” (Public Law 108–257).

H.R. 3942, a bill to redesignate the facility of the United States Postal Service located at 7 Commercial Boulevard in Middletown, Rhode Island, as the “Rhode Island Veterans Post Office Building” (Public Law 108–258).

H.R. 4037, a bill to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau,

Missouri, as the “Richard G. Wilson Processing and Distribution Facility” (Public Law 108–259).

H.R. 4176, a bill to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the “Bobby Marshall Gentry Post Office Building” (Public Law 108–260).

H.R. 4222, a bill to designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the “Newell George Post Office Building” (Public Law 108–296).

H.R. 4299, a bill to designate the facility of the United States Postal Service located at 410 South Jackson Road in Edinburg, Texas, as the “Dr. Miguel A. Nevarez Post Office Building” (Public Law 108–261).

H.R. 4327, a bill to designate the facility of the United States Postal Service located at 7450 Natural Bridge Road in St. Louis, Missouri, as the “Vitalas ‘Veto’ Reid Post Office Building” (Public Law 108–298).

H.R. 4380, a bill to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the “Sergeant First Class Paul Ray Smith Post Office Building” (Public Law 108–292).

H.R. 4381, a bill to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the “Harvey and Bernice Jones Post Office Building” (Public Law 108–392).

H.R. 4427, a bill to designate the facility of the United States Postal Service located at 73 South Euclid Avenue in Montauk, New York, as the “Perry B. Duryea, Jr. Post Office” (Public Law 108–300).

H.R. 4556, a bill to designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the “General William Carey Lee Post Office Building” (Public Law 108–395).

H.R. 4618, a bill to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the “Anthony I. Lombardi Memorial Post Office Building” (Public Law 108–397).

H.R. 4632, a bill to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the “Archie Spigner Post Office Building” (Public Law 108–398).

H.R. 5039, a bill to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the “Eva Holtzman Post Office” (Public Law 108–403).

S. 2214, a bill to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the “Mike Mansfield Post Office.” (Public Law 108–440).

S. 2640, a bill to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the “Guardians of Freedom Memorial Post Office Building” and to authorize the installation of a plaque at such site, and for other purposes. (Public Law 108–442).

S. 2693, a bill to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the “Lieutenant John F. Finn Post Office.” (Public Law 108–443).

MEASURES FAVORABLY REPORTED BY COMMITTEE AND PASSED BY THE
SENATE

S. 481—To amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

This legislation would increase by one percentage point the percentage otherwise applicable for a Federal Employees’ Retirement System annuity computation that includes, in the aggregate, at least two months of credit for any period of receiving disability compensation benefits.

S. 481 was introduced in the Senate on February 27, 2003, by Senator Allen, with seven cosponsors. Senator Collins reported it from the Committee without amendment on July 21, 2003, with written report, S. Rept. 108–108. It passed the Senate without amendment by Unanimous Consent on July 28, 2003, and was referred to the House Committee on Government Reform the next day.

S. 589—To strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

This legislation comprises: Title I, establishing a pilot program for student loan repayment for Federal employees in national-security positions, subject to regulations to be drafted by the Office of Personnel Management; Title II, amending the David L. Boren National Security Education Act of 1991 to require the National Security Education Board to establish a program for awarding National Security Fellowships to eligible graduate students who agree to employment with the Government in national security positions, and amending the Act to direct the Board to create a National Security Service Corps, under the direction of the Board, to provide rotational opportunities for mid-level employees in national-security positions within and between specified agencies; and Title III, which requires affected agencies to develop annual strategic plans that describe training required to achieve goals and objectives, and evaluates the extent to which specific skills in human capital are needed to achieve the mission, goals, and objectives of the agency.

S. 589, the Homeland Security Federal Workforce Act of 2003, was introduced in the Senate on March 11, 2003, by Senator Akaka, with eight cosponsors. Senator Collins reported it from the Committee on July 31, 2003, without amendment and with written report, S. Rept. 108–119. Additional views were filed. The bill passed the Senate with an amendment by Unanimous Consent on

November 5, 2003. It was referred to the House Subcommittee on Civil Service and Agency Organization on July 13, 2004.

S. 2688—To provide for a report of Federal entities without annually audited financial statements.

This legislation instructs the Director of the Office of Management and Budget to list for certain congressional committees each Federal entity that receives an exemption or waiver from the statutory requirement for an annually audited financial statement, and to list other Federal entities, including special-purpose entities, that do not prepare independently audited annual financial statements. It requires OMB to assess: (1) the capability of the listed entities to prepare annual financial statements and have them independently audited; (2) how to reduce the costs of preparing the financial statements and performing independent audits; and (3) the benefits of improved financial oversight encompassing the Executive Branch, including the feasibility of preparing annual financial statements and independently audited statements for certain executive branch entities.

S. 2688, the Executive Branch Financial Accountability Reporting Act, was introduced in the Senate on July 19, 2004, by Senator Fitzgerald, with one cosponsor. Committee on Governmental Affairs. Senator Collins reported it from the Committee without amendment on October 4, 2004, with written report, S. Rept. 108–383. The bill passed the Senate with an amendment by Unanimous Consent on October 11, 2004. It was referred to the House Committee on Government Reform on November 16, 2004.

S. 2639—To reauthorize the Congressional Award Act.

This legislation would amend the Congressional Award Act to extend through calendar 2009 the requirement that the Comptroller General determine and report to Congress whether the Director of the Congressional Award Board is complying with requirements for financial operations of the Congressional Award Program. The bill extends the authorization of the Board from October 1, 2004, to October 1, 2009; allows the Board to use Federal sources to carry out its functions and make expenditures; allows the Board to accept a maximum of one-half of all funds accepted from Federal sources; and authorizes appropriations for FY 2005 through 2009.

S. 2639 was introduced in the Senate on July 13, 2004, by Senator Lieberman, with four seven cosponsors. Senator Collins reported it from Committee without amendment and with written report, S. Rept. 108–339 on September 14, 2004. It passed the Senate with an amendment by Unanimous Consent on September 29, 2004, and was referred to the House Committee on Education and the Workforce the next day.

S. 2635—A bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of Federal, State, and local governments.

This legislation establishes the U.S.-Israel Homeland Security Grant Program to identify, develop, or modify existing or near term homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the

United States and to address the homeland security needs of Federal, State, and local governments. It directs the Secretary of Homeland Security to assess the homeland security needs of Federal, State, and local governments and first responders and areas where specific homeland security information, equipment, capabilities, technologies, and services could address those needs; survey near-term and existing homeland-security information developed within the United States and Israel; and provide grants to eligible applicants to develop, manufacture, sell, or otherwise provide homeland security information, equipment, capabilities, technologies, and services to address such needs.

It authorizes the Secretary to require grant recipients to make available non-Federal matching contributions of up to 50 percent of the total proposed project cost, and to repay the amount of the grant with interest and administrative charges.

The bill was introduced in Senate on July 8, 2004, by Senator Collins, with three cosponsors. Senator Collins reported it from the Committee on November 11, 2004, with an amendment in the nature of a substitute and with written report, S. Rept. 108–420. It passed the Senate with an amendment by Unanimous Consent on November 21, 2004. The bill was held at the desk in the House on November 24, 2004.

S. 2479—To amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes.

This legislation allows a Federal employee or member to elect to make contributions under the Thrift Savings Plan (TSP) of the Federal Employees' Retirement System to be made at any time, and provides that such an election shall remain in effect until modified or terminated. It also instructs the Federal Retirement Thrift Investment Board to periodically evaluate whether the tools available to TSP participants provide the information needed to understand, evaluate, and compare financial products, services, and opportunities offered through the TSP; and to use these evaluations to improve its program.

The Thrift Savings Plan Open Elections Act of 2004 was introduced in the Senate on May 21, 2004, by Senator Collins, with four cosponsors. Senator Collins reported it from the Committee without amendment, and with written report, S. Rept. 108–290, on June 25, 2004. The bill passed the Senate without amendment by Unanimous Consent on July 16, 2004. It was referred to the House Committee on Government Reform on July 19, 2004.

S. 2322—To amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for Federal employees.

This legislation amends Federal law to include employees of the District of Columbia courts as participants in long-term care insurance for Federal employees.

The bill was introduced in the Senate on April 20, 2004, by Senator Akaka, with one cosponsor. 6/21 Senator Collins reported it from the Committee without amendment and with written report, S. Rept. 108–283 on June 21, 2004. It passed the Senate without

amendment by Unanimous Consent on June 24, 2004, and was referred to the House Committee on Government Reform the next day.

S. 2249—To amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

This legislation Amends the portions of the Stewart B. McKinney Homeless Assistance Act regarding its emergency food and shelter program to authorize appropriations, change the name of one of the Board nominating organizations, and provide for inclusion of homeless individuals, homeless advocates, or food and shelter recipients on local boards.

The Emergency Food and Shelter Act of 2004 was introduced in the Senate on March 29, 2004, by Senator Collins, with eight cosponsors. Senator Collins reported it from the Committee without amendment and with written report, S. Rept. 108–308 on July 15, 2004. It passed the Senate without amendment by Unanimous Consent on July 21, 2004. The bill was referred to the House Subcommittee on Housing and Community Opportunity on August 3, 2004.

S. 1741—To provide a site for the National Women’s History Museum in the District of Columbia.

This legislation requires the Administrator of General Services to enter into an occupancy agreement for up to 99 years to make the Pavilion Annex adjoining the Old Post Office in Washington, D.C., available for rent to the National Women’s History Museum, Inc., and provides for execution and cost treatment of renovations and modification of the property.

The bill was introduced in the Senate on October 16, 2003, by Senator Collins, with 20 cosponsors. Senator Collins reported it from the Committee without amendment and with written report, S. Rept. 108–204 on November 20, 2003. It passed the Senate without amendment by Unanimous Consent on November 21, 2003. On January 28, 2004, it was referred to the House Committee on Transportation and Infrastructure.

S. 1612—To establish a technology, equipment, and information transfer within the Department of Homeland Security.

This legislation would amend the Homeland Security Act of 2002 to include a multi-agency program to allow for transfer of technology, equipment, and information to State and local law enforcement agencies. It allows the program Director, upon approval of the Secretary, to expand the program to first responders other than law-enforcement agencies and to revise the advisory committee accordingly.

S. 1612 was introduced in the Senate on September 11, 2003, by Senator Collins, with 10 cosponsors. Senator Collins reported it from the Committee on November 25, 2003, with an amendment in the nature of a substitute, and submitted a written report, S. Rept. 108–217, on December 9, 2003. The bill passed the Senate with an amendment by Unanimous Consent on February 4, 2004. It was held at the desk in the House on February 6, 2004.

S. 1567—To amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes.

This legislation amends the Chief Financial Officers Act of 1990 and the Homeland Security Act of 2002 to require the President to appoint a Chief Financial Officer for the Department of Homeland Security (DHS), subject to Senate confirmation. It also instructs the Secretary of Homeland Security to submit an annual performance and accountability report incorporating the Government Performance and Results Act program performance report, including an audit opinion on DHS's internal controls over its financial reporting.

The bill was introduced in the Senate on August 1, 2003, by Senator Fitzgerald, with five cosponsors. Senator Collins reported it from the Committee with an amendment in the nature of a substitute on November 20, 2003. The bill passed the Senate with an amendment by Unanimous Consent on November 21, 2003. A written report, S. Rept. 108-211, was submitted on November 25, 2003. The bill was held at the desk in the House on November 25, 2003.

S. 1561—To preserve existing judgeships on the Superior Court of the District of Columbia.

This legislation amends the District of Columbia Code to increase from 58 to 61 the number of associate judges on the District's Superior Court. The bill was introduced in the Senate on August 1, 2003, by Senator Collins, with two cosponsors. Senator Collins reported it from the Committee without amendment on November 18, 2003, with written report, S. Rept. 108-200. The bill passed the Senate without amendment by Unanimous Consent on November 20, 2003. It was referred to the House Committee on Government Reform on November 21, 2003.

S. 1522—A bill to provide new human capital flexibility with respect to the GAO, and for other purposes.

This legislation amends Federal law to make permanent: The entitlement of certain U.S. General Accounting Office officers and employees who separate from service voluntarily to annuities under the Civil Service Retirement System or the Federal Employees' Retirement System; and (2) authority of the Comptroller General to provide voluntary separation incentive payments to GAO employees. It also authorizes the Comptroller General, under specified conditions, to adjust annually the basic rates of GAO and Senior Executive Service officers and employees whose performance is at a satisfactory level. Other provisions require regulations on pay retention following specified job changes, authorize an executive-exchange program under which GAO officers and employees may be assigned to private sector organizations, and employees of private sector organizations may be assigned to GAO, rename the U.S. General Accounting Office as the U.S. Government Accountability Office, and modify requirements of the GAO personnel management system.

The bill was introduced in the Senate on July 31, 2003, by Senator Voinovich, with one cosponsor. Senator Collins reported it from the Committee with amendments on November 21, 2003. The bill passed the Senate with amendments by Unanimous Consent on

November 24, 2003. Written report, S. Rept. 108–216 was submitted on December 9, 2003. The bill was held at the desk on November 25, 2003.

S. 1267—To amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes.

This legislation amends the District of Columbia Home Rule Act to provide that the District of Columbia budget passed by the Council of the District of Columbia shall be enacted without referral to the President or approval by the Congress, unless it is the budget for a fiscal year which is a control year; it prohibits obligations or expenditures by District government officers and employees without the Council's approval or, in the case of a control year, congressional approval. Other provisions modify rules on re-enacting measures vetoed as line items; control authorizations for hirings or transfers; provide an opt-out mandate for metered cab fares; create, assigns powers and duties, and define reporting relationships for the position of Chief Financial Officer; and require fiscal-impact statement for many measures before final adoption by the Council.

The bill was introduced in the Senate on June 16, 2003, by Senator Collins, with six cosponsors. Senator Collins reported it from the Committee on November 25, 2003, with an amendment and with written report, S. Rept. 108–212. It passed the Senate with an amendment by Unanimous Consent on December 9, 2003. On January 20, 2004, the bill was referred to the House Committees on Government Reform, Rules, and Appropriations.

S. 1292—To establish a servitude and emancipation archival research clearinghouse in the National Archives.

This legislation directs the Archivist of the United States to establish, as part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy, and requires the National Historical Publications and Records Commission to maintain the database.

The bill was introduced in the Senate on June 19, 2003, by Senator Landrieu, with seven cosponsors. Senator Collins reported it from the Committee with amendments and with written report, S. Rept. 108–282 on June 21, 2004. It passed the Senate with amendments by Unanimous Consent on June 25, 2004. On July 1, 2004, it was referred to the House Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census.

SELECTED MEASURES REPORTED BY THE COMMITTEE

A number of measures considered, adopted, and reported to the Senate by the Committee during the 108th Congress were not enacted by the full body. Two of these measures, described here, were notable as signs of the Committee's focus on improving homeland security.

S. 1245—Homeland Security Grants Enhancement Act.

The bill, which was introduced by Senator Collins on June 12, 2003, was originally marked up by the Committee on June 17,

2003, and was approved by a vote of 9–0. The legislation included a number of provisions to improve the administration of homeland-security grants, and authorized formula grants to States for planning, exercises, and equipment for first responders. Senator Lieberman proposed a Committee amendment which included increasing the portion of the grant funds provided directly to local government in high-threat areas from 10 percent to 25 percent, and loosening restrictions on use of funds to pay overtime compensation. The proposed compromise was agreed upon unanimously by the Committee on June 23, 2004. The full Senate later adopted these provisions as an amendment to the Intelligence Reform and Terrorism Prevention Act of 2004. However, agreement could not be reached in conference with House lawmakers.

S. 2701—Homeland Security Interagency and Interjurisdictional Information Sharing Act of 2004.

S. 2701, introduced by Senator Lieberman on July 21, 2004, would have improved the sharing of homeland security information among first responders and all levels of government. It would also have helped with interoperability issues among first responders. The legislation would have authorized \$3.3 billion over 5 years to provide a reliable and consistent funding source specifically for interoperability solutions and would have created an Office of Information Sharing within the Department of Homeland Security. Modified versions of several provisions in this legislation were included in the landmark Intelligence Reform and Terrorism Prevention Act of 2004.

VIII. PRESIDENTIAL NOMINATIONS

During the 108th Congress, the Committee received a total of 48 Presidential nominations. Of these, 27 were reported favorably and confirmed by the Senate, 6 were discharged from Committee and confirmed, 2 were withdrawn by the President, and 13 were not acted upon by the Committee.

The following 27 nominations were favorably reported by the Committee and confirmed by the Senate:

Penrose C. Albright, to be Assistant Secretary of Homeland Security, Department of Homeland Security. (Hearing held July 29, 2003)

Joshua B. Bolten, to be Director of the Office of Management and Budget, Executive Office of the President. (Hearing held June 25, 2003)

Scott J. Bloch, to be Special Counsel, Office of Special Counsel. (Hearing held November 12, 2003)

Jerry Stewart Byrd, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held June 18, 2003)

Dale Cabaniss, to be Member of the Federal Labor Relations Authority. (Hearing held September 30, 2003)

Terrence A. Duffy, to be Member of the Federal Retirement Thrift Investment Board. (Hearing held May 15, 2003)

Gordon England, to be Deputy Secretary of Homeland Security, Department of Homeland Security. (Hearing held January 24, 2003)

Michael J. Garcia, to be Assistant Secretary, Department of Homeland Security. (Hearing held June 5, 2003)

Janet Hale, to be Under Secretary for Management, Department of Homeland Security. (Hearing held February 27, 2003)

Brian F. Holeman, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held September 30, 2003)

Craig S. Iscoe, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held September 30, 2003)

Gregory E. Jackson, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held October 5, 2004)

Joel David Kaplan, to be Deputy Director of the Office of Management and Budget, Executive Office of the President. (Hearing held July 29, 2003)

James M. Loy, to be Deputy Secretary of Homeland Security, Department of Homeland Security. (Hearing held November 18, 2003)

Judith Nan Macaluso, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held June 18, 2003)

Neil McPhie, to be Chairman of the Merit Systems Protection Board. (Hearing held July 19, 2004)

C. Suzanne Mencer, to be Director of the Office for Domestic Preparedness, Department of Homeland Security.

Fern Flanagan Saddler, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held June 18, 2003)

Thomas J. Ridge, to be Secretary of Homeland Security, Department of Homeland Security. (Hearing held January 17, 2003)

Joseph Michael Francis Ryan III, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary. (Hearing held June 18, 2003)

David Safavian, to be Administrator for Federal Procurement Policy, Executive Office of the President. (Hearing held April 29, 2004)

Barbara J. Sapin, to be Member of the Merit Systems Protection Board. (Hearing held July 19, 2004)

Linda M. Springer, to be Controller, Office of Federal Financial Management, Office of Management and Budget, Executive Office of the President. (Hearing held February 27, 2003)

David M. Stone, to be Assistant Secretary of Homeland Security, Department of Homeland Security. (Hearing held April 8, 2004)

Dawn A. Tisdale, to be Commissioner of the Postal Rate Commission, Postal Rate Commission. (Hearing held April 29, 2004)

C. Stewart Verdery, Jr., to be Assistant Secretary, Department of Homeland Security. (Hearing held June 5, 2003)

Joe D. Whitley, to be General Counsel, Department of Homeland Security. (Hearing held July 29, 2003)

Six nominations were discharged with the concurrence of the Committee and confirmed by the Senate. Of these, four were for Inspectors General, which by Standing Order of the Senate are sequentially referred to the Committee and discharged after 20 days:

Harold Damelin, to be Inspector General, Small Business Administration.

J. Russell George, to be Inspector General for Tax Administration, Department of the Treasury.

Clay Johnson III, to be Deputy Director for Management, Office of Management and Budget, Executive Office of the President. (Hearing held April 2, 2003)

James C. Miller III, to be Governor of the United States Postal Service.

Patrick P. O'Carroll, Jr., to be Inspector General, Social Security Administration.

Richard W. Moore, to be Inspector General, Tennessee Valley Authority.

The following two nominations were withdrawn by the President:

Albert Casey, to be Governor of the United States Postal Service.

Susanne T. Marshall, to be Chairman of the Merit System Protection Board.

The following 13 nominations were not acted upon by the Committee:

Jennifer M. Anderson, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary.

Albert Casey, to be Governor, United States Postal Service.

Laura A. Cordero, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary.

Peter Eide, to be General Counsel of the Federal Labor Relations Authority.

Clark Kent Ervin, to be Inspector General, Department of Homeland Security.

Carolyn L. Gallagher, to be Governor of the United States Postal Service.

Louis J. Giuliano, to be Governor of the United States Postal Service.

Tony Hammond, to be Commissioner of the Postal Rate Commission.

Noel Anketell Kramer, to be Associate Judge of the District of Columbia Court of Appeals, The Judiciary.

Juliet JoAnn McKenna, to be Associate Judge of the Superior Court of the District of Columbia, The Judiciary.

Brian David Miller, to be Inspector General, General Services Administration.

Allen Weinstein, to be Archivist of the United States, National Archives and Records Administration.

Edwin D. Williamson, to be Director of the Office of Government Ethics, Office of Personnel Management.

IX. ACTIVITIES OF THE SUBCOMMITTEES

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE
BUDGET, AND INTERNATIONAL SECURITY

CHAIRMAN: PETER G. FITZGERALD

RANKING MINORITY MEMBER: DANIEL K. AKAKA

I. HEARINGS

The Subcommittee on Financial Management, the Budget, and International Security held the following hearings during the 108th Congress:

Drugs, Counterfeiting, and Weapons Proliferation: The North Korean Connection (May 20, 2003)

The hearing featured first-time testimony from two North Korean defectors: A former high-level official in the North Korean government and a former missile scientist. The hearing was intended to raise international awareness regarding North Korea's use of illicit enterprises to help finance its military. As an example of these illicit enterprises, a news broadcast was downloaded and played for the audience from ONE News of New Zealand regarding an April 20th incident in which a North Korean vessel called the Pong Su was spotted trying to off-load approximately \$80 million of heroin to a fishing boat off the coast of Australia.

Testimony indicated that the North Korean government runs a drug production and trafficking business that functions as a State-level crime syndicate. Money from the sale of illegal drugs, counterfeited currency, and smuggling of counterfeited goods is used to finance the North Korean military and its exportation of dangerous weapons to other nations, according to testimony that was given at the hearing. Due to the sensitive nature of the defectors' testimony, a portion of the hearing was closed to the public.

Witnesses: Andre D. Hollis, Deputy Assistant Secretary for Counternarcotics, U.S. Department of Defense; William Bach, Director, Office of Asia, Africa, and Europe, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State; Dr. Nicholas Eberstadt, American Enterprise Institute; Dr. Robert L. Gallucci, Georgetown University Walsh School of Foreign Service; Dr. Larry M. Wortzel, Heritage Foundation; Former North Korean High-Ranking Government Official; Identity Protected; and Bok Koo Lee (alias), former North Korean Missile Scientist.

Oversight of Government-Sponsored Enterprises: The Risks and Benefits of GSEs to Consumers (July 21, 2003)

The purpose of this oversight hearing was to examine the current financial status of the dominant housing GSEs, Fannie Mae and Freddie Mac in particular, and to engage in a debate about the risks and benefits of GSEs to consumers. On the one hand, housing GSEs provide an important social mission. Especially in the early years of Fannie Mae and Freddie Mac, consumers benefited from lower mortgage rates and enhanced opportunities for home ownership by low to moderate income consumers. GSEs have also created liquidity for mortgage financing through their debt securities. Addi-

tionally, the housing GSEs have served a useful and important public function of educating Americans regarding home ownership. On the other hand, recent news reports have raised a number of important questions regarding the size, complexity, and financial status of housing GSEs, and this hearing sought to address those questions. The hearing considered questions such as: Is there adequate market discipline on Fannie and Freddie? Would more competition help in ensuring that Fannie and Freddie do not take unnecessary risks? Are they adequately capitalized? Are some of the features of their special status as GSEs necessary in today's sophisticated marketplace? What are the implications of interest rate volatility? If lower interest rates lowered Fannie Mae's earnings, as was recently reported, what would the possibility of higher rates do to its financial status?

Witnesses: Alex J. Pollock, President and CEO, Federal Home Loan Bank of Chicago, Chicago, Illinois; Peter J. Wallison, Senior Fellow, American Enterprise Institute; Bert Ely, President, Ely and Company, Inc.; W. Michael House, Executive Director, FM Policy Focus; James C. Miller III, Chairman, CapAnalysis Group, LLC; F. Barton Harvey III, Chairman and CEO, The Enterprise Foundation; and Dr. Susan M. Wachter, Wharton School of Business, University of Pennsylvania.

Safeguarding America's Retirement Security: An Examination of Defined Benefit Pension Plans and the Pension Benefit Guaranty Corporation (September 15, 2003)

This hearing was held in response to increasing reports regarding record pension underfunding. In July 2003, the U.S. General Accounting Office designated the PBGC's single-employer pension insurance program as a "high risk" program requiring more oversight. In September, the Pension Benefit Guaranty Corporation reported that its financial condition had deteriorated sharply since 2001, largely due to financially weak companies which made pension promises that they could not deliver. These developments raised several concerns: That benefits to retirees could be reduced; that companies could be forced to increase their contributions to the government insurance plan; and that taxpayers might ultimately have to bail out the Pension Benefit Guaranty Corporation.

The overall focus of the hearing was to help ensure the retirement security of hardworking Americans by determining ways to reform defined benefit pension plans. In broad terms, the hearing examined (1) the financial condition of the Pension Benefit Guaranty Corporation; (2) how Congress can help strengthen the PBGC; and (3) how Congress and the Administration can help improve the accuracy of the actuarial and funding practices of company-sponsored plans.

More specifically, the issues discussed included: Improving the accuracy of plan sponsors' liability calculations; increasing the transparency of pension plan information; replacement of the 30-year Treasury bond rate; current liability vs. termination liability; declining PBGC revenue; increasing the extent to which pension contributions are tax deductible; the allowance of alternative investments; and the effect of cash balance plans.

Witnesses: Hon. Peter R. Fisher, Under Secretary for Domestic Finance, U.S. Department of the Treasury; Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation; Christopher W. O'Flinn, Vice President, Corporate Human Resources, AT&T, on behalf of the ERISA Industry Committee; Kathy Anne Cissna, Director of Retirement Plans, R.J. Reynolds, on behalf of the American Benefits Council; Norman P. Stein, Professor of Law, University of Alabama, on behalf of the Pension Rights Center; John P. Parks, Vice President, Pension Practice Council, American Academy of Actuaries; J. Mark Iwry, Senior Fellow, The Brookings Institution; and guest of the Committee: Malcolm Wicks, Minister for Pensions, British Government.

Mutual Funds: Trading Practices and Abuses That Harm Investors
(November 3, 2003)

The hearing was held in order to investigate the breadth and the extent of the illicit trading practices that had been uncovered in recent months and to identify statutory and regulatory reform proposals that could be enacted in order to prevent a recurrence of the abuses and to better protect fund shareholders.

Witnesses: Hon. Richard H. Baker (R-LA), Chairman, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, Committee on Financial Services, U.S. House of Representatives; Stephen M. Cutler, Director, Division of Enforcement, U.S. Securities and Exchange Commission; Paul F. Royce, Director, Division of Investment Management, U.S. Securities and Exchange Commission; Hon. William F. Galvin, Secretary of the Commonwealth of Massachusetts; Hon. Eliot L. Spitzer, Attorney General for the State of New York; Mary L. Schapiro, Vice Chairman and President of Regulatory Policy and Oversight, National Association of Securities Dealers; John C. Bogle, Founder and Former CEO, The Vanguard Group; Mercer E. Bullard, Founder and President, Fund Democracy, Inc.; and Matthew P. Fink, President, Investment Company Institute.

Oversight Hearing on Mutual Funds: Hidden Fees, Misgovernance, and Other Practices That Harm Investors (January 27, 2004)

The purpose of this oversight hearing was to examine the propriety of mutual fund fees and the adequacy of fee disclosure. The hearing attempted to lift the veil off hidden fees such as revenue sharing, directed brokerage, and soft money arrangements. The hearing also examined hidden loads such as 12b-1 fees. Finally, there was a discussion of how statutory and regulatory changes might improve the disclosure and allow for more informed comparisons between funds.

Witnesses: Richard J. Hillman, Director, Financial Markets and Community Investment, U.S. General Accounting Office; Hon. Eliot L. Spitzer, Attorney General, Office of the New York State Attorney General; Peter T. Scannell, Weymouth Landing, Massachusetts; James Nesfield, Nesfield Capital; John C. Bogle, Founder and Former CEO, The Vanguard Group and President, Bogle Financial Markets Research Center; Jeffrey C. Keil, Vice President, Global Fiduciary Review, Lipper, Inc.; Travis B. Plunkett, Legislative Director, Consumer Federation of America; Paul Schott Stevens, Partner, Dechert LLP, on behalf of the Investment Company Institute; Marc E. Lackritz, President, Securities Industry Associa-

tion; and John P. Freeman, Professor of Law, University of South Carolina Law School.

Oversight of the Thrift Savings Plan: Ensuring the Integrity of Federal Employee Retirement Savings (March 1, 2004)

The Thrift Savings Plan provides Federal employees with the equivalent of a private sector 401(k) plan. The TSP is the largest defined contribution plan in the world, and currently has 3.2 million participants with \$13 billion in investments. The purpose of this oversight hearing was to ensure the financial integrity of the Thrift Savings Plan, making certain that the TSP continues to provide plan participants with high-quality service, while keeping administrative fees and transaction costs to a minimum.

The hearing also examined TSP's oversight mechanisms, its audits, and its daily investment and management activities. This hearing provided the opportunity to examine the implementation of the new automated record keeping system; new fund initiatives including the life cycle fund; and proposed administrative changes to the TSP, such as the introduction of new fees.

Witnesses: Hon. Andrew M. Saul, Chairman, Federal Retirement Thrift Investment Board; Gary A. Amelio, Executive Director, Federal Retirement, Thrift Investment Board; Alan D. Lebowitz, Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, U.S. Department of Labor; James M. Sauber, Chairman, Thrift Advisory Council; and Blake R. Grossman, Global Co-Chief Executive Officer and Managing Director, Barclays Global Investors.

The Federal Government's Role in Empowering Americans to Make Informed Financial Decisions (March 30, 2004)

The purpose of the hearing was to examine the current status and effectiveness of Federal financial literacy programs, and to assess the proposed activities of the new Federal Financial Literacy and Education Commission. Title V of the Fair and Accurate Transactions Act created the Financial Literacy and Education Commission in December 2003. The Commission is charged with developing a national strategy to promote financial literacy and education among all American consumers. It will review financial literacy and education efforts throughout the Federal Government including programs run by the SEC, FDIC, Federal Reserve, Department of the Treasury, and the Department of Education; identify and eliminate duplicative financial literacy efforts; and coordinate the promotion of Federal financial literacy efforts including outreach partnerships between Federal, State, and local governments, non-profit organizations, and enterprises. Through increased collaboration and coordination between agencies, the effectiveness of financial literacy efforts can be improved, helping to empower consumers of all ages to create effective budgets, accumulate savings, use credit wisely, and make smart investment decisions.

Witnesses: Hon. Paul S. Sarbanes, U.S. Senator; Hon. Mike Enzi, U.S. Senator; Hon. Debbie Stabenow, U.S. Senator; Hon. Brian C. Roseboro, Acting Under Secretary for Domestic Finance, U.S. Department of the Treasury; Nina Shokrai Rees, Deputy Under Secretary for Innovation and Improvement, U.S. Department of Education; Susan Ferris Wyderko, Director, Office of Investor Edu-

cation and Assistance, U.S. Securities and Exchange Commission; Don M. Blandin, President, American Savings Education Council; Dara Duguay, Executive Director, Jump\$tart Coalition for Personal Financial Literacy; and Dr. Robert F. Duvall, President and CEO, National Council on Economic Education.

Legislative Hearing on S. 346, a Bill to Amend the Office of Federal Procurement Policy Act to Establish a Governmentwide Policy Requiring Competition in Certain Procurements From Federal Prison Industries (April 7, 2004)

S. 346 would repeal the “mandatory source” authority found in the 1934 legislation that created Federal Prison Industries. The bill would thus require that all Federal agencies conduct a competition for any products those agencies would otherwise have purchased from FPI on a sole-source basis.

The bill provides three exceptions to the competitive bidding requirement: (1) the Attorney General determines that the FPI cannot reasonably expect fair consideration in a competitive bidding scenario, and the award to FPI is necessary to maintain safe and effective prison administration; (2) the product is only available from FPI; and (3) the agency head determines that the product would otherwise be furnished by prison labor abroad.

Section three of the bill would expand the Federal statute prohibiting the sale of prison-made goods into interstate commerce to apply to both products and services. Currently, FPI is allowed to provide goods across State lines to other Federal agencies, but not to the commercial market. UNICOR currently provides some services to the commercial market.

This legislative hearing provided the Subcommittee with an opportunity to assess the implications of S. 346 for the Federal Prison Industries program. Issues the hearing explored included how inmates receive work experience in prisons, and how this work experience helps maintain discipline within the correctional facilities; the impact work experience has in equipping prisoners for re-entry into society; and the extent to which the products and services inmates produce impact the private sector—both positively and negatively.

Witnesses: Hon. Craig Thomas, U.S. Senator; Hon. Debbie Stabenow, U.S. Senator; Harley G. Lappin, Director, Federal Bureau of Prisons; Jack R. Williams, Jr., Assistant Regional Administrator, Federal Supply Service, Region 3, U.S. General Services Administration; John M. Palatiello, President, Management Association for Private Photogrammetric Surveyors, on behalf of the U.S. Chamber of Commerce; Kurt Weiss, Senior Vice President and General Manager, U.S. Business Interiors, on behalf of the Office Furniture Dealers Alliance; Andrew S. Linder, President, Power Connector, Inc., on behalf of the Correctional Vendors Association; and Philip W. Glover, President, Council of Prison Locals, American Federation of Government Employees, AFL-CIO.

Oversight Hearing on Expensing Stock Options: Supporting and Strengthening the Independence of the Financial Accounting Standards Board (April 20, 2004)

The purpose of this oversight hearing was to explore the importance of the Financial Accounting Standards Board’s independence

in setting financial reporting and accounting standards. In addition, the witnesses evaluated FASB's proposal that would require public companies to recognize the expense for employee stock options measured using only the fair value method on grant date, based on the estimated number of awards that are expected to vest. The Subcommittee also examined the economic, accounting, and financial reporting impact of expensing stock options.

Witnesses: Hon. Barbara Boxer, U.S. Senator; Hon. Mike Enzi, U.S. Senator; Robert H. Herz, Chairman, Financial Accounting Standards Board; Hon. Paul A. Volcker, Chairman, International Accounting Standards Committee Foundation, and former Chairman, Board of Governors, Federal Reserve System; Jack T. Ciesielski, President, R.G. Associates, Inc.; Damon Silvers, Associate General Counsel, The American Federation of Labor—Congress of Industrial Organizations (AFL—CIO); Donald P. Delves, President, The Delves Group; Mark Heesen, President, National Venture Capital Association; and James K. Glassman, Resident Fellow, American Enterprise Institute.

International Smuggling Networks: Weapons of Mass Destruction Counterproliferation Initiatives (June 23, 2004)

International smuggling of weapons of mass destruction poses a grave and dangerous threat to U.S. national security. On May 31, 2003, President Bush acknowledged this threat when he announced the Proliferation Security Initiative, which seeks to combine the use of existing national and international legal authorities with enhanced intelligence sharing to improve WMD interdiction efforts. The PSI also includes a strong focus on multilateral efforts to combat the smuggling of WMD. The purpose of this hearing was to examine the current status of the PSI, as well to review it in light of the recent revelations of the WMD smuggling network orchestrated by Pakistani scientist Abdul Qadeer Khan.

The hearing further sought to review the past success made by the PSI, and to gain a better understanding of the role the Bush Administration intends in terms of global security. Witnesses testified on a series of issues directly concerning the smuggling of weapons of mass destruction including export controls and post shipment verification of dual use technologies in the United States and abroad.

Witnesses: Hon. Peter Lichtenbaum, Assistant Secretary of Commerce for Export Administration, U.S. Department of Commerce; Mark T. Fitzpatrick, Acting Deputy Assistant Secretary for Nonproliferation Controls, U.S. Department of State; David Albright, President and Founder, Institute for Science and International Security; Michael Moodie, President, Chemical and Biological Arms Control Institute; Leonard S. Spector, Deputy Director, Center for Nonproliferation Studies, Monterey Institute of International Studies; and Baker Spring, F.M. Kirby Research Fellow in National Security Policy, The Heritage Foundation.

The Federal Government's Financial Statement and Accountability of Taxpayer Dollars at the Departments of Defense and Homeland Security (July 8, 2004)

For the seventh year in a row, the financial statement of the United States failed to receive an audit opinion from the U.S. Gov-

ernment Accountability Office (formerly the U.S. General Accounting Office) for fiscal year 2003. The GAO cited significant material deficiencies that affected both the financial statement and the management of government operations. Specifically, the GAO was unable to render an opinion because of serious financial management problems at the Department of Defense and the Federal Government's inability to account for billions of dollars of transactions between Federal Government entities, and the Federal Government's ineffective process for preparing the consolidated financial statements. The purpose of the hearing was to examine the issues hindering an opinion on the consolidated financial statements while focusing on the financial management issues at the Department of Defense.

The hearing also sought to identify potential financial management risks at the Department of Homeland Security (DHS), a newly created department with 22 financial management legacy systems. DHS is the only cabinet department not yet subject to CFO Act requirements, but is required under the Accountability of Tax Dollars Act to prepare and have audited financial statements.

Witnesses: Hon. David M. Walker, Comptroller General, U.S. Government Accountability Office; Hon. Linda M. Springer, Controller, Office of Federal Financial Management, U.S. Office of Management and Budget; Donald V. Hammond, Fiscal Assistant Secretary, U.S. Department of the Treasury; Lawrence J. Lanzillotta, Acting Under Secretary of Defense for (Comptroller), U.S. Department of Defense; Francis E. Reardon, Deputy Inspector General for Auditing, U.S. Department of Defense; Gregory D. Kutz, Director, Financial Management and Assurance, U.S. Government Accountability Office; Andrew B. Maner, Chief Financial Officer, U.S. Department of Homeland Security; Hon. Clark Kent Ervin, Inspector General, U.S. Department of Homeland Security; and McCoy Williams, Director, Financial Management and Assurance, U.S. Government Accountability Office.

Oversight Hearing on Section 529 College Savings Plans: High Fees, Inadequate Disclosure, Disparate State Tax Treatment and Questionable Broker Sales Practices (September 30, 2004)

Section 529 College Savings Plans are administered at the State level and encourage families to save money for their children's college educations by providing investment opportunities. Each State, as well as the District of Columbia, offers 529 Plans. These plans are considered municipal securities and therefore are not subject to disclosure requirements of the Investment Company Act of 1940. Given the complex cost structure of these plans, the lack of standardized disclosure often leads to confusing and frustrating comparison of plans for the less sophisticated investors.

Another interest of the hearing was to discuss the layers of fees incurred by investors because of the State Governments, brokers, and fund managers all participating in the investment process. Chairman Fitzgerald voiced his opinion that Congress should limit or minimize the fees charged by third parties.

Witnesses: Steven T. Miller, Commissioner, Tax Exempt and Governmental Entities Division, Internal Revenue Service; Mary L. Schapiro, Vice Chairman and President, Regulatory Policy and Oversight, NASD; Ernesto A. Lanza, Senior Associate General

Counsel, Municipal Securities Rulemaking Board; Hon. Michael A. Ablowich, Treasurer, State of New Hampshire, on behalf of the National Association of State Treasurers; Jacqueline T. Williams, Executive Director, College Advantage Savings Plan, Ohio Tuition Trust Authority, on behalf of the College Savings Plan Network; Martin M. Noven, Deputy Chief of Staff, on behalf of Judy Baar Topinka, State Treasurer, State of Illinois; Richard O. Davis, Deputy Executive Director for Finance and Administration, Utah Higher Education Assistance Authority; Daniel McNeela, CFA, Senior Analyst, Morningstar, Inc.; and Mercer E. Bullard, Founder and President, Fund Democracy, Inc.

Oversight Hearing on Insurance Brokerage Practices, Including Potential Conflicts of Interest and the Adequacy of the Current Regulatory Framework (November 16, 2004)

The purpose of this oversight hearing was to investigate insurance brokerage practices and the impact of these practices on consumers. The hearing focused especially on contingent commission arrangements, which a broker receives based upon volume or profitability of business it sends to insurers. Because the broker owes a duty to its client, the insured, to represent its best interests, contingent commissions raise the specter of a conflict of interest. In any instance of recommending an insurance policy to a client, is the broker acting in the client's best interests or its own interests based upon compensation agreements with particular insurers? New York Attorney General Eliot Spitzer's recent lawsuit against industry giant Marsh and McLennan raises these issues, and further alleges that contingent commissions give rise to more egregious practices such as illegal bid-rigging and price-fixing.

On the other hand, as a dominant market player, Marsh was arguably in a position to leverage its market power in ways that companies in more competitive industry sectors could not. The hearing thus additionally examined the impact of market power, and whether additional or more aggressive antitrust enforcement would be an appropriate policy response. Finally, the hearing inquired whether the brokerage controversy shed any further illumination on current insurance reform proposals, such as the optional Federal charter and the State Modernization and Regulatory Transparency (SMART) Act.

Witnesses: Hon. Eliot L. Spitzer, Attorney General, State of New York; Hon. Richard Blumenthal, Attorney General, State of Connecticut; Hon. Gregory V. Serio, Superintendent of Insurance, State of New York, on behalf of the National Association of Insurance Commissioners; Hon. John Garamendi, Insurance Commissioner, State of California; Albert R. Counselman, President and CEO, Riggs, Counselman, Michaels and Downes, Inc., on behalf of the Council of Insurance Agents and Brokers; Alex Soto, President, InSource, Inc., on behalf of the Independent Insurance Agents and Brokers of America; Ernst N. Csiszar, President and CEO, Property Casualty Insurers Association of America; Janice Ochenskowski, Senior Vice President for External Affairs, Risk and Insurance Management Society; J. Robert Hunter, Director of Insurance, Consumer Federation of America.

II. LEGISLATION

The following bills were considered by the Subcommittee on Financial Management, the Budget, and International Security during the 108th Congress:

Measures enacted into law

S. 481, the Kurtz bill, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments. This bill provides that the percentage otherwise applicable for a Federal Employees' Retirement System annuity computation that includes, in the aggregate, at least 2 months of credit for any period of receiving disability compensation benefits shall be increased by 1 percentage point. S. 481 was introduced on February 27, 2003, by Senators George Allen and John Warner, and was referred to the Senate Committee on Governmental Affairs. Senators Daniel Akaka, Hillary Clinton, Susan Collins, Richard Durbin, Olympia Snowe, and Ted Stevens were cosponsors. On March 21, 2003, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security. S. 481 was favorably polled out of the Subcommittee on May 12, 2003, and was reported by the Governmental Affairs Committee without amendment on July 21, 2003 (S. Rept. 108-108). On July 28, 2003, S. 481 passed the Senate with no further action. On July 29, 2003, the bill was received in the House and referred to the House Government Reform Committee. A companion bill, H.R. 978, was signed by the President and became law on October 3, 2003 (P.L. 108-92).

S. 2657, the Federal Employee Dental and Vision Benefits Enhancement Act of 2004. This bill amends part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents to expand the contracting authority of the Office of Personnel Management. S. 2657 was introduced by Senators Susan Collins and Daniel Akaka on July 14, 2004, and was referred to the Governmental Affairs Committee. Senators George Allen, Joseph Lieberman, Rick Santorum, and George Voinovich were cosponsors of this legislation. On July 15, 2004, S. 2657 was referred to the Subcommittee on Financial Management, the Budget, and International Security. The bill was favorably polled out of the Subcommittee on July 20, 2004, and was favorably reported without amendment by the Governmental Affairs Committee on July 21, 2004 (S. Rept. 108-393). S. 2657 passed the Senate on November 20, 2004, with an amendment by unanimous consent. The House passed the bill on December 6, 2004. On December 23, 2004 the bill was signed by the President and became P.L. 108-496.

Measures favorably reported by the Subcommittee and passed by the Senate

S. 2322, a bill to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in the long term care insurance program for Federal employees. S. 2322 was introduced on April 20, 2004 by Senators Daniel

Akaka and George Voinovich and was referred to the Governmental Affairs Committee. On May 6, 2004, S. 2322 was referred to the Subcommittee on Financial Management, the Budget, and International Security. The bill was favorably polled out of the Subcommittee on May 27, 2004, and was favorably reported from the Governmental Affairs Committee without amendment on June 21, 2004 (S. Rept. 108–283). The Senate passed S. 2322 by unanimous consent without amendment on June 24, 2004.

S. 2479, the Thrift Savings Plan Open Elections Act of 2004. This bill would amend chapter 84 of title 5, United States Code, to allow a Federal employee or member to make, modify, or terminate contributions under the Thrift Savings Plan (TSP) of the Federal Employees' Retirement System at any time. Senators Susan Collins, Daniel Akaka, Peter Fitzgerald, Joseph Lieberman, and George Voinovich introduced S. 2479 on May 21, 2004. On May 21, 2004, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security. S. 2479 was favorably polled out of the Subcommittee on June 1, 2004. On June 2, 2004, the Governmental Affairs Committee favorably reported the bill without amendment to the Senate (S. Rept. 108–290). S. 2479 passed the Senate by unanimous consent without amendment on July 16, 2004.

Measures referred to the Subcommittee upon which hearings were held or other action was taken

S. 1358, the Federal Employee Protection of Disclosures Act. This bill would amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes. Senators Daniel Akaka, Richard Durbin, Charles Grassley, Patrick Leahy, and Carl Levin introduced S. 1358 on June 26, 2003. Senators Mark Dayton, Tim Johnson, Frank Lautenberg, and Mark Pryor were later added as cosponsors. On August 1, 2003, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security. The full Committee held a hearing regarding this legislation on November 12, 2003.

On July 8, 2004, Senators Daniel Akaka, Susan Collins, Mark Dayton, Richard Durbin, Peter Fitzgerald, Charles Grassley, Tim Johnson, Frank Lautenberg, Patrick Leahy, Carl Levin, Joseph Lieberman, Mark Pryor, and George Voinovich introduced S. 2628, an amended version of S. 1358. S. 2628 was referred to the Subcommittee on Financial Management, the Budget, and International Security on July 9, 2004. On October 8, 2003, S. 2628 was favorably polled out of the Subcommittee. On October 8, 2004, the Governmental Affairs Committee favorably reported the bill without amendment (S. Rept. 108–392).

S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements. S. 346 was introduced on February 11, 2003, by Senators Carl Levin and Craig Thomas. Senators Conrad Burns, Saxby Chambliss, Elizabeth Dole, Charles Grassley, Richard Lugar, Richard Shelby, and Debbie Stabenow

were cosponsors of this legislation. On September 24, 2003, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security. The Subcommittee held a hearing regarding S. 346 on April 7, 2004. The bill was favorably polled out of the Subcommittee on June 1, 2004. The Governmental Affairs Committee favorably reported the bill with an amendment on November 18, 2004 (S. Rept. 108–415).

S. 2409, a bill to provide for continued health benefits coverage for certain Federal employees. S. 2409 was introduced by Senators George Voinovich, Daniel Akaka, Susan Collins, Richard Durbin, and Joseph Lieberman on May 11, 2004, and was referred to the Governmental Affairs Committee. On May 17, 2004, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security. The bill was favorably polled out of the Subcommittee on May 27, 2004. The Governmental Affairs Committee favorably reported S. 2409 with an amendment on November 16, 2004 (S. Rept. 108–410).

S. 1369 and its companion bill, H.R. 2631. These bills would ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally. S. 1369 was introduced on June 27, 2003, by Senators Daniel Akaka, George Allen, Barbara Mikulski, Paul Sarbanes, and John Warner. Senators Jon Corzine, Thomas Daschle, Byron Dorgan, Daniel Inouye, Tim Johnson, Frank Lautenberg, Carl Levin, Patty Murray, Harry Reid, and Jay Rockefeller were later added as cosponsors. On July 7, 2003, S. 1369 was referred to the Subcommittee on Financial Management, the Budget, and International Security. H.R. 2631 was referred to the Subcommittee on August 1, 2003. Both bills were favorably polled out of the Subcommittee on May 27, 2004.

Measures which did not advance beyond referral to the Subcommittee

S. 81, Clinical Social Workers' Recognition Act of 2003. This bill amends chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses. The bill was introduced by Senator Daniel Inouye on January 7, 2003 and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on March 21, 2003.

S. 90, a bill to extend certain budgetary enforcement to maintain fiscal accountability and responsibility. This bill amends the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act) to extend Pay-As-You-Go (PAYGO) requirements. The bill was introduced on January 7, 2003 by Senator Judd Gregg and Russell Feingold, and cosponsored by Senators Lincoln Chafee, and John McCain, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 319, Federal Employees Health Benefits Improvement Act of 2003. This bill increases the biweekly contribution payable by the Government for a Federal employee or annuitant enrolled in a Fed-

eral employee health insurance plan. The bill was introduced on February 5, 2003 by Senator Barbara Mikulski and Paul Sarbanes, and cosponsored by Senators Richard Durbin and Tim Johnson, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on March 21, 2003.

S. 417, Osteoporosis Federal Employee Health Benefits Standardization Act of 2003. This bill prohibits contracts from being made or plans approved under the health insurance program for Federal employees which do not include coverage of bone mass measurements of qualified individuals. The bill was introduced on February 14, 2003 by Senators Olympia Snowe, Tom Harkin, Mary Landrieu, and Patty Murray, and cosponsored by Senator Barbara Mikulski, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on March 21, 2003.

S. 530, Federal Firefighters Fairness Act of 2003. This bill provides that, with regard to an individual federally employed in fire protection activities: (1) heart disease, lung disease, and specified cancers and infectious diseases shall be presumed to be proximately caused by the individual's employment; (2) such individual's disability or death due to such a disease shall be presumed to result from personal injury sustained while in the performance of duty; and (3) such presumptions may be rebutted by a preponderance of the evidence. The bill was introduced on March 5, 2003 by Senator John Kerry, and cosponsored by Senator Mark Dayton, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 640, Federal Prosecutors Retirement Benefit Equity Act of 2003. This bill amends Federal civil service law to include Federal prosecutors within the definition of "law enforcement officer" (LEO). The bill would extend LEO benefits under the Civil Service Retirement System and the Federal Employees' Retirement System to Federal prosecutors, including Assistant United States Attorneys (AUSAs), and such other attorneys in the Department of Justice (DOJ) as may be designated by the Attorney General. The bill would exempt Federal prosecutors from mandatory retirement provisions for LEOs under the civil service laws. The bill was introduced on March 18, 2003 by Senator Patrick Leahy, and cosponsored by Senators Barbara Boxer, John Breaux, Jim Bunning, Saxby Chambliss, Jon Corzine, Michael Crapo, Christopher Dodd, Richard Durbin, Dianne Feinstein, Orrin Hatch, Mary Landrieu, Barbara Mikulski, Bill Nelson, Jay Rockefeller, Gordon Smith, Debbie Stabenow, and Ron Wyden, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 675, a bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law. The bill was introduced on March 20, 2003 by Senator John Ensign, and cosponsored by Senators Michael Crapo, Jon Kyl, and Jeff Ses-

sions, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 776, a bill to amend chapters 83 and 84 of title 5, United States Code, to authorize payments to certain trusts under the Social Security Act, and for other purposes. The bill was introduced on April 3, 2003 by Senator Ben Nighthorse Campbell, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 819, Law Enforcement Officers Retirement Equity Act. This bill redefines the term "law enforcement officer" under provisions of the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS) to include: (1) Federal employees not otherwise covered by such term whose duties include the investigation or apprehension of suspected or convicted individuals and who are authorized to carry a firearm; and (2) such employees of the Internal Revenue Service whose duties are primarily the collection of delinquent taxes and the securing of delinquent returns. The bill was introduced on April 8, 2003 by Senator Barbara Mikulski, and cosponsored by Senators Ben Nighthorse Campbell, Patrick Leahy, and Paul Sarbanes, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 1229, Federal Employee Protection of Disclosure Act. This bill serves as a protected disclosure by a Federal employee any lawful disclosure an employee or applicant reasonably believes is credible evidence of waste, fraud, abuse, or gross mismanagement, without restriction as to time, place, form, motive, context, or prior disclosure. The bill was introduced on June 10, 2003 by Senator Daniel Akaka, and cosponsored by Senators Mark Dayton, Richard Durbin, Patrick Leahy, and Carl Levin, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003. An adjusted version of this bill, S. 1358 was subsequently introduced.

S. 1252, Domestic Partnership Benefits and Obligations Act of 2003. This bill entitles domestic partners of Federal employees to benefits available to spouses of Federal employees. Specifies certifications required for benefit eligibility, filing requirements regarding partnership dissolution, and confidentiality requirements. Amends the Internal Revenue Code to extend to domestic partners under this Act the tax exemption for employer contributions to accident and health plans. The bill was introduced on June 12, 2003 by Senator Mark Dayton, and cosponsored by Senators Barbara Boxer, Maria Cantwell, Hillary Rodham Clinton, Jon Corzine, Daniel Inouye, John Kerry, Frank Lautenberg, Joseph Lieberman, Patty Murray, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on June 20, 2003.

S. 2367, a bill to amend chapters 83 and 84 of title 5, United States Code, to provide Federal retirement benefits for U.S. citizen employees of Air America, Inc., its subsidiary Air Asia Company

Limited, or the Pacific Division of Southern Air Transport, Inc. This bill was introduced on April 29, 2004 by Senator Harry Reid, and cosponsored by Senators Daniel Inouye and Ted Stevens, and referred to the Senate Committee on Governmental Affairs. This bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on May 6, 2004.

S. 2418, a bill to amend chapter 83 and 84 of title 5, United States Code, to authorize payments to certain trusts under the Social Security Act, and for other purposes. This bill was introduced on May 13, 2004 by Senator Ben Nighthorse Campbell and referred to the Senate Committee on Governmental Affairs. This bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on July 14, 2004.

S. 2612, a bill to amend the Law Enforcement Pay Equity Act of 2000 to permit certain annuitants of the retirement programs of the U.S. Park Police and U.S. Secret Service Uniformed Division to receive the adjustments in pension benefits to which such annuitants would otherwise be entitled as a result of the conversion of members of the U.S. Park Police and U.S. Secret Service Uniformed Division to a new salary schedule under the amendments made by such Act. This bill was introduced on July 7, 2004 by Senator Barbara Mikulski, and cosponsored by Senator Paul Sarbanes, and referred to the Senate Committee on Governmental Affairs. This bill was referred to the Subcommittee on Financial Management, the Budget, and International Security on July 14, 2004.

III. GAO REPORTS

The following reports were issued by the Government Accountability Office at the request of the Chairman and/or Ranking Member of the Subcommittee on Financial Management, the Budget, and International Security:

Weapons of Mass Destruction: Additional Russian Cooperation Needed to Facilitate U.S. Efforts to Improve Security at Russians Sites, GAO-3-482 (March 24, 2003).

Nuclear Nonproliferation: DOE Action Needed to Ensure Continued Recovery of Unwanted Sealed Radioactive Sources, GAO-03-483 (May 13, 2003).

Nuclear Nonproliferation: U.S. and International Assistance Efforts to Control Sealed Radioactive Sources Need Strengthening, GAO-30-638 (June 16, 2003).

Nuclear Security: Federal and State Action Needed to Improve Security of Sealed Radioactive Sources, GAO-03-804 (August 6, 2003).

Pending request to the GAO for review of the International Atomic Energy Agency's role in assisting countries to control sealed radioactive source, July 28, 2003.

Pending request to the GAO for review of Executive Branch entities that do not prepare annual financial statements and have those statements independently audited, December 13, 2004.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE,
AND THE DISTRICT OF COLUMBIA

CHAIRMAN: GEORGE V. VOINOVICH

RANKING MINORITY MEMBER: RICHARD J. DURBIN

I. HEARINGS

The Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia held the following hearings during the 108th Congress:

Evaluating Human Capital at the National Aeronautics and Space Administration (March 6, 2003)

This was the Subcommittee's eleventh oversight hearing on the human capital challenge of the Federal Government. The purpose of the hearing was to examine the current condition of the workforce at the National Aeronautics and Space Administration (NASA). This hearing also considered the personnel reform proposal NASA brought to Congress.

Representative Sherwood Boehlert expressed concern that the human capital challenge at NASA is a need that must be addressed by Congress immediately. NASA faces increasing competition from the private sector and academia for the globally shrinking talent pool. Mr. O'Keefe identified the Scholarship for Service program as the most needed tool to ensure NASA's success in the future. He also identified enhanced leave provisions and enhanced recruitment, retention, and relocation provisions, as necessary tools for NASA to meet its current workforce challenge.

Witnesses: Hon. Sherwood Boehlert, Chairman, House Science Committee, and Hon. Sean O'Keefe, Administrator, National Aeronautics and Space Administration.

The Human Capital Challenge: Offering Solutions and Delivering Results (April 8, 2003) Joint Hearing with House Subcommittee on Civil Service and Agency Organization

The Subcommittee hearing was held jointly with the House Subcommittee on Civil Service and Agency Organization of the Government Reform Committee and was co-chaired by Senator Voinovich and Representative Jo Ann Davis. The purpose of the hearing was twofold: (1) to examine the Federal Government's strategic human capital management as a GAO High-Risk List item, and (2) to consider pending legislation to reform the Federal workforce.

Witnesses testified on current human capital practices, pay for performance, and external views of the governments' recruitment policies. Witnesses promoted increasing recruitment among young people, as well as developing a mid-career presidential management fellows program.

Witnesses: Hon. David M. Walker, Comptroller General of the United States; Hon. Dan G. Blair, Deputy Director of the Office of Personnel Management; Bobby L. Harnage, National President, American Federation of Government Employees (AFGE); Colleen M. Kelley, President, National Treasury Employees Union (NTEU); Carol A. Bonosaro, President, Senior Executives Association (SEA);

Karen Heiser, Treasurer, Chapter 88, Federal Managers Association (FMA); Hannah S. Sistare, Executive Director, National Commission on the Public Service; Dr. Steven J. Kelman, Weatherhead Professor of Public Management, John F. Kennedy School of Government, Harvard University; Max Stier, President and Chief Executive Officer, Partnership for Public Service; and Jeff Taylor, President and Chief Executive Officer, Monster.

An Overlooked Asset: The Defense Civilian Workforce (May 12, 2003) Field Hearing at Wright-Patterson Air Force Base, Dayton, Ohio

This was the Subcommittee's thirteenth oversight hearing since July 1999 on the Federal Government's human capital challenges. The hearing was conducted in the Philip E. Carney Auditorium, United States Air Force Museum, Wright-Patterson Air Force Base. The purpose of the hearing was to examine the status of the civilian workforce at the Department of Defense (DOD), including the Air Force and at the Base level.

Witnesses testified on the Defense Department's proposed National Security Personnel System (NSPS), workforce reductions, the makeup of the Air Force's civilian employees and their progress in recruiting a younger, more diverse workforce, and the use and frequency of current workforce flexibilities.

Witnesses: Hon. David S. C. Chu, Under Secretary of Defense, Personnel and Readiness; Hon. David M. Walker, Comptroller General of the United States; Hon. Michael L. Dominguez, Assistance Secretary of the Air Force, Manpower and Reserve Affairs; General Lester L. Lyles, Commander, Air Force Materiel Command (AFMC); Dr. Vincent J. Russo, Executive Director, Aeronautical Systems Center; Dr. Beth J. Asch, Senior Economist, RAND; Scott Blanche, President, American Federation of Government Employees, Council 214; Michael Durand, Deputy Treasurer, American Federation of Government Employees, Local 1138; and John P. Nauseef, Vice President, Aerospace, Defense, and Technology, Dayton Development Coalition.

Great Lakes Restoration Management: No Direction, Unknown Progress (July 16, 2003)

The purpose of this hearing was to review a U.S. General Accounting Office (GAO) report, "An Overall Strategy and Indicators for Measuring Progress Are Needed to Better Achieve Restoration Goals—GAO-03-515," and management of the various Great Lakes environmental programs and to discuss options to improve restoration efforts. The GAO report, released in April 2003, identified the Federal and State environmental programs operating in the Great Lakes Basin and funding devoted to them, evaluated the restoration strategies used and how they are coordinated, and assessed overall environmental progress made in the basin restoration effort. GAO found that there are numerous strategies that are not coordinated or unified and that EPA's Great Lakes National Program Office has coordination authority over many activities but has not fully exercised it to this point. Additionally, the GAO found that available information does not allow for a comprehensive assessment of restoration progress in the Great Lakes and that suc-

cess of an ongoing binational effort to develop overall indicators for the Great Lakes is uncertain.

Questions and discussion during the hearing focused on how to develop a coordinated strategy for Great Lakes restoration and who or what should coordinate the various programs and actors involved at the local, State, Federal, and international level.

Witnesses: Senator Mike DeWine; Senator Carl Levin; John Stephenson, Director of Natural Resources and Environment Issues, U.S. General Accounting Office; Robyn Thorson, Region 3 Director, U.S. Fish and Wildlife Service; Thomas Skinner, Region 5 Administrator, U.S. Environmental Protection Agency; Colonel William E. Ryan, III, Deputy Commander, Great Lakes Ohio River Division, Army Corps of Engineers; Timothy Keeney, Deputy Assistant Secretary, National Oceanic and Atmospheric Administration; Dennis Schornack, Chairman, United States Section, International Joint Commission; Susan Garrett, Illinois State Senator, District 29; Chris Jones, Director, Environmental Protection Agency, State of Ohio; Margaret Wooster, Executive Director, Great Lakes United.

Then and Now: An Update on the Bush Administration's Competitive Sourcing Initiative (July 24, 2003)

The hearing was, in part, a follow-up to the March 6, 2002, full Committee hearing to consider Federal contracting issues. The purpose was to consider the various changes the Administration has made to its competitive sourcing initiative, originally detailed in the 2002 President's Management Agenda.

Testimony indicated that changes are taking place to the ambitious competitive sourcing agenda first established in 2002, but there is still much to be done. The cost effectiveness of competitive sourcing is believed to be an effective tool for government cost cutting.

Witnesses: Hon. Angela Styles, Administrator, Office of Federal Procurement Policy; Hon. David Walker, Comptroller General, U.S. General Accounting Office; Hon. Jacques Gansler, Center for Public Policy and Private Enterprise, University of Maryland; Dr. Paul C. Light, Senior Fellow, The Brookings Institution; Charles Tiefer, Professor of Law, University of Baltimore; and Dr. Frank Camm, Senior Analyst, RAND.

Keeping the Lights On: The Federal Role in Managing the Nation's Electricity, Parts I and II (September 10, 2003 and November 20, 2003)

The Subcommittee held a series of two hearings regarding the Federal Government's role in ensuring the reliability of the electricity supply following the August 14, 2003 blackout, which affected the northern Midwest and the Northeast, causing approximately 50 million people to lose power. The hearing was held in two parts. Part I considered future energy policy, including ways to modernize the country's electrical grid, the Federal role in electricity regulation, and how to prevent future blackouts from occurring. Part II reviewed a draft report issued by the U.S.-Canada Joint Task Force regarding the August 14 blackout from the Federal Energy Regulatory Commission, the Department of Energy, and the North American Electric Reliability Council (NERC).

Witnesses for Part I, September 10, 2003: Kyle E. McSillarow, Deputy Secretary of Energy; Hon. Pat Wood, III, Chairman Federal Energy Regulatory Commission; Dr. Alan R. Schriber, Chairman, Public Utilities Commission of Ohio; Craig A. Glazer, Vice President Government Policy, PJM Interconnection; James P. Torgerson, President and Chief Executive Officer, Midwest Independent Transmission System Operator, Inc.; William J. Museler, President and CEO, New York Independent System Operator; and James Y. Kerr, II, North Carolina Utilities Commission.

Witnesses for Part II, November 20, 2003: Hon. Pat Wood, III, Chairman, Federal Energy Regulatory Commission; James W. Glotfelty, Director, Office of Electric Transmission and Distribution, Department of Energy; and Michael Gent, President and CEO, North American Electric Reliability Council.

Fair or Foul: The Challenge of Negotiating, Monitoring, and Enforcing U.S. Trade Laws (December 9, 2003)

This hearing focused on the human capital challenges at the United States Trade Representative (USTR) and the Department of Commerce's International Trade Administration (ITA). Throughout the 1990s, employment figures within ITA fluctuated from year-to-year. According to GAO, even though staffing levels have increased, several additional human capital challenges exist for these agencies. In particular, the need for specialized knowledge and the demand for individuals with experience in trade compliance and litigation creates unique recruitment and retention challenges for our trade agencies.

Assistant Secretary Jochum noted that Commerce will be ready to appoint a new Assistant Secretary of Manufacturing as soon as the FY 2004 omnibus legislation, which contains funding for this new position, is passed. The creation of a new Office of China Compliance with Commerce, which brings together for the first time, in one office, various Commerce staff who handle China issues, will also be implemented when the omnibus bill is passed.

Witnesses: Dr. Loren Yager, Director of International Affairs and Trade at the U.S. General Accounting Office; Hon. James Jochum, Assistant Secretary, Import Administration; Hon. Charles Freeman III, Deputy Assistant U.S. Trade Representative; Frank Vargo, Vice President of the National Association of Manufacturers; Dr. Thomas Duesterberg, President and Chief Executive Officer of the Manufactures Alliance; Tim Hawk, Superior Metal Products and American Trim LLC, Lima, Ohio.

The Key to Homeland Security: The New Human Resources System (February 25, 2004)

This hearing, held jointly with the House Subcommittee on Civil Service and Agency Organization of the Government Reform Committee, was co-chaired by Senator Voinovich and Representative Jo Ann Davis. The purpose of the hearing was to examine the new human resource management system designed jointly by the Department of Homeland Security and the Office of Personnel Management. The proposed regulations for the new system were published in February in the Federal Register for public comment.

Testimony offered differing views of the effect that the New Human Resources System would have on the Federal workforce.

Union representatives argued against the changes in pay, performance, and classification that would take place, while Director Kay Coles James disputed their claims.

Witnesses: Hon. James Loy, Deputy Secretary, Department of Homeland Security; Hon. Kay Coles James, Director of the Office of Personnel Management; Hon. David M. Walker, Comptroller General of the U.S. General Accounting Office; John Gage, National President, American Federation of Government Employees (AFGE); Colleen M. Kelley, President, National Treasury Employees Union (NTEU); and Mike Randall, President, National Association of Agriculture Employees.

The Road to Recovery: Solving the Social Security Disability Backlog (March 29, 2004) Field Hearing at the Vocational Rehabilitation Guidance Service Building, Cleveland, Ohio

This hearing examined the problems associated with the backlog of the Social Security Administration's (SSA) disability cases. The primary focus of the hearing, however, was to explore Social Security Commissioner Jo Anne Barnhart's comprehensive strategy to improve the entire disability claims process, which includes short- and long-term solutions.

Overall, all witnesses recognized that there were problems with the disability process, but believed that Commissioner Barnhart was taking comprehensive steps to address the shortcomings.

SSA Commissioner Barnhart discussed her approach to solving the disability backlog. Her plan includes several long-term nationwide strategies, including the development of an Accelerated Electronic Disability System. This initiative will move all components involved in disability claims adjudication and review to an electronic disability folder.

Witnesses: Hon. Jo Anne Barnhart, Commissioner of the Social Security Administration; Hon. Hal Daub, Chairman of the Social Security Advisory Board; Robert Robertson, GAO Director of Education, Workforce, and Income Security; Erik Williamson, Assistant Director of the Ohio Bureau of Disability Determination; Hon. Kevin Dugan, Executive Vice President of the Association of Administrative Law Judges; James A. Hill, President, National Treasury Employees Union Chapter 224, SSA Office of Hearings and Appeals, Cleveland Ohio; Marcia Margolius, Attorney with Brown and Margolius, L.P.A., Cleveland, Ohio.

Does CMS Have the Right Prescription? Implementing the Medicare Prescription Drug Program (April 8, 2004)

The hearing focused on a variety of administrative challenges facing CMS as the agency works toward implementing the new prescription drug benefit by January 2006. Special attention was paid to CMS's ability to educate and assist beneficiaries in enrolling in and understanding the new benefit.

Testimony indicated that this program will constitute one of the most fundamental changes in Medicare's history. In order for it to be implemented successfully, the agency must use all available human and financial resources. Medicare has had a history of successes for implementing programs such as the Medicare drug card.

Witnesses: Michael McMullan, Deputy Director, Center for Beneficiary Choices, Centers for Medicare and Medicaid Services; Gail

Wilensky, Senior Fellow, Project HOPE; and Nancy Ann Min DeParle, Senior Advisor, J.P. Morgan Partners, LLC.

Pirates of the 21st Century: The Curse of the Black Market (April 20, 2004)

This hearing focused on the effectiveness of the Federal Government's various efforts to enforce existing intellectual property rights (IPR). Specifically, the hearing examined the activities of the Department of Commerce (Commerce), the Office of the United States Trade Representative (USTR), and the Department of Homeland Security (DHS) to protect U.S. intellectual property interests both at home and abroad. It should be noted that the Office of the United States Trade Representative did not send a witness to the hearing, although an invitation was extended to the agency.

The overarching focus of the hearing was how the current U.S. intellectual property enforcement policies relate to the loss of over 2.7 million jobs in the U.S. manufacturing sector. The International Chamber of Commerce estimates that counterfeiting drains between \$300 and \$350 billion annually from the world's economy. This is roughly 5 to 7 percent of total world trade, and each dollar lost to American citizens and companies winds up lining the pockets of criminals. For U.S. manufacturers, protection of intellectual property is not an abstract concept. America's competitive edge is derived from innovation and rising productivity, and the protection of intellectual property remains one of the best means for ensuring that American manufacturers enjoy the benefits of their investments.

Witnesses: Jon Dudas, Acting Undersecretary, Intellectual Property and Director, U.S. Patent and Trademark Office; Francis Gary White, Unit Chief, Commercial Fraud, Immigration and Customs Enforcement, U.S. Department of Homeland Security; Professor Daniel C. K. Chow, Michael E. Moritz College of Law, The Ohio State University; Phillip A. Rotman II, Assistant Patent and Trademark Counsel, Dana Corporation; and Jeff Gorman, President and CEO, The Gorman-Rupp Company.

Trimming the Fat: Examining Duplicative and Outdated Federal Programs and Functions (May 6, 2004)

The purpose of this hearing was to examine Senator Sam Brownback's legislation, S. 1668, the Commission on the Accountability and Review of Federal Agencies Act (CARFA).

Senator Brownback introduced S. 1668, the Commission on the Accountability and Review of Federal Agencies Act (CARFA), on September 26, 2003, which creates a commission to evaluate domestic Federal agencies and programs to maximize the effectiveness of Federal funds. The Commission established by this legislation would recommend plans for realignment or elimination of Federal programs that are duplicative, wasteful, outdated, or irrelevant. Upon completion of its work, the Commission would report back to Congress with draft legislation to implement its recommendations. Congress would subsequently be required to vote either up-or-down on the recommendations. This is similar to the procedure employed by past base realignment and closure commissions.

Witnesses: Senator Sam Brownback; Hon. Clay Johnson III, Deputy Director for Management, Office of Management and Budget; Hon. Dick Armey, Citizens for a Sound Economy, and former Majority Leader of the House of Representatives; Paul Weinstein Jr., Senior Fellow, Progressive Policy Institute and Adjunct Professor at Johns Hopkins University.

Dietary Supplement Safety Act: How is the Food and Drug Administration Doing 10 Years Later? (June 8, 2004)

This hearing examined the challenges and successes the U.S. Food and Drug Administration (FDA) has experienced since the passage of the Dietary Supplement Health and Education Act of 1994 (DSHEA). DSHEA amended the Federal Food, Drug, and Cosmetic Act (FD&C) to establish a regulatory framework for dietary supplements in an attempt to create the right balance between providing consumers access to dietary supplements and giving the Food and Drug Administration (FDA) the regulatory power to take action against supplements that present safety problems, have false or misleading claims, or are otherwise adulterated or misbranded. Although dietary supplements are regulated as foods, pre-market approval is not mandatory.

Witnesses: Robert E. Brackett, Ph.D., Director of the Center for Food Safety and Applied Nutrition, Food and Drug Administration (FDA); Alice M. Clark, Ph.D., Vice Chancellor for Research and Sponsored Programs, The University of Mississippi; Dr. Ronald M. Davis, M.D., Member, Board of Trustees, American Medical Association; Charles Bell, Program Director, Consumer Reports; Bruce Silverglade, Director of Legal Affairs, Center for Science in the Public Interest; Anthony L. Young, General Counsel, American Herbal Products Association (AHPA); and Annette Dickinson, Ph.D., President, Council for Responsible Nutrition.

Dr. Brackett discussed in detail the statutory framework of DSHEA, as well as how the FDA enforces DSHEA. Both Dr. Davis and Silverglade advocated the pre-market approval by the FDA for dietary supplements, just as with prescription drugs. Mr. Young and Dr. Dickinson talked about the need to change DSHEA to require Adverse Event Reporting.

Building the 21st Century Federal Workforce: Assessing Programs in Human Capital Management (July, 20, 2004)

The purpose of this hearing was to review governmentwide workforce flexibilities available to Federal agencies, with a focus on those enacted in the Homeland Security Act. The hearing examined their implementation, use by agencies, and training and education related to using the new flexibilities.

Testimony indicated that progress for improving hiring processes and human capital management is taking place throughout government. NASA in particular has made great strides with the flexibilities allowed for hiring necessary personnel.

Witnesses: Hon. Dan Blair, Deputy Director, Office of Personnel Management; Hon. Clay Johnson, III, Deputy Director for Management, Office of Management and Budget; J. Christopher Mihm, Managing Director of Strategic Issues, U.S. General Accounting Office; Dr. Ed Sontag, Assistant Secretary for Administration and Management, Department of Health and Human Services; Joanne

Simms, Deputy Assistant Attorney General for Human Resources and Administration, Department of Justice; and Vicki Novak, Assistant Administrator for Human Resources, National Aeronautics and Space Administration.

The 9/11 Commission Human Capital Recommendations: A Critical Element of Reform (September 14, 2004)

The hearing was held to examine the personnel issues addressed in the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission).

The 9/11 Commission noted several areas for Federal personnel reform, including (1) improving the presidential appointments process for national security positions; (2) establishing a single agency that conducts security clearance background investigations; and (3) providing some additional personnel flexibilities to the Federal Bureau of Investigation (FBI) to reflect its increased counterterrorism and intelligence responsibilities.

Witnesses: Fred Fielding, Commissioner, National Commission on Terrorist Attacks Upon the United States; Jamie Gorelick, Commissioner, National Commission on Terrorist Attacks Upon the United States; Mark Bullock, Assistant Director of Administrative Services, Federal Bureau of Investigation; John A. Turnicky, Special Assistant to the Director of Central Intelligence for Security; Chris Mihm, Managing Director of Strategic Issues, Government Accountability Office; Dr. Paul Light, Senior Fellow, The Brookings Institution; C. Morgan Kinghorn, President, National Academy of Public Administration; Max Stier, President and Chief Executive Officer, Partnership for Public Service; and Doug Wagoner, Chairman, Security Clearance Task Group, Information Technology Association of America.

II. LEGISLATION

The following bills were considered by the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia during the 108th Congress:

MEASURES ENACTED INTO LAW

S. 129—The Federal Workforce Flexibility Act of 2003 amends provisions of title 5, United States Code, to make reforms to Federal employment. This bill revises existing authority to pay recruitment, relocation, and retention bonuses. S. 129 provides for enhanced annual leave for individuals beginning Federal employment mid-career and authorizes compensatory time for employees required to travel during nontraditional work hours. The bill transfers oversight of critical pay authority from the Office of Management and Budget to the Office of Personnel Management. It also improves the effectiveness of the special salary rates by correcting numerous pay administration anomalies associated with the locality pay provisions of the General Schedule. S. 129 requires employee training be linked with agency performance plans and strategic goals. S. 129 was introduced on January 9, 2003, by Senator Voinovich and referred to the Governmental Affairs Committee. On March 21, 2003, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. The bill was favorably reported out of the

Subcommittee on June 13, 2003. S. 129, as amended, was reported to the Senate by the Governmental Affairs Committee on January 27, 2004 (S. Rept. 108–223). On April 8, 2004, S. 129, further amended, passed the Senate by unanimous consent. On April 20, 2004, the bill was received in the House of Representatives and referred to the House Government Reform Committee and the Subcommittee on Civil Service and Agency Organization. The Subcommittee on Civil Service and Agency Organization reported the bill to the House Government Reform Committee with amendment on May 18, 2004. The Government Reform Committee further amended S. 129 on October 5, 2004, and reported the measure. The House passed S. 129 by voice vote on October 6, 2004. The Senate passed by unanimous consent S. 129, as amended by the House, on October 11, 2004. S. 129 was signed by the President and became law on October 30, 2004 (P.L. 108–411).

S. 610—The NASA Flexibility Act of 2004 adds chapter 98 to title 5, United States Code, to provide the National Aeronautics and Space Administration additional workforce authorities. S. 610 was introduced by Senator Voinovich on March 13, 2003, and referred to the Governmental Affairs Committee. The bill was co-sponsored by Senators Allen, Senator Carper, Cochran, Coleman, Lott, Nelson, Sessions, Shelby, and Stevens. On April 30, 2003, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. The bill was favorably reported out of the Subcommittee on June 13, 2003. S. 610, as amended, was reported to the Senate by the Governmental Affairs Committee on June 28, 2003 (S. Rept. 108–113). On November 24, 2003, S. 610, further amended, passed the Senate by unanimous consent. On November 25, 2003, the bill was received in the House of Representatives and held at the desk. On January 28, 2004, the House passed S. 610 by voice vote without amendment. S. 610 was signed by the President and became law on February 24, 2004 (P.L. 108–201).

S. 926—The Federal Employee Student Loan Assistance Act amends section 5379 of title 5, United States Code, to increase the annual and aggregate amount to \$10,000 and \$60,000 that agencies can repay to a highly qualified employee for a student loan. S. 926 was introduced by Senator Voinovich on April 28, 2003, and referred to the Governmental Affairs Committee. Senator Stevens is a cosponsor of the bill. On April 30, 2003, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. The bill was favorably reported out of the Subcommittee on June 13, 2003. S. 926 was reported to the Senate without amendment by the Governmental Affairs Committee on June 17, 2003 (S. Rept. 108–109). On July 30, 2003, the Senate passed S. 926 by unanimous consent. The bill was received in the House of Representatives on September 3, 2003, and referred to the Committee on Government Reform. On September 16, 2003, S. 926 was referred to the Subcommittee on Civil Service and Agency Organization. On October 28, 2003, the House passed S. 926. On November 11, 2003, S. 926 was signed by the President and became law (P.L. 108–123). H.R. 3797—The 2004 District of Columbia Omnibus Authorization Act was the first annual omnibus authorization bill for the District of Columbia. It authorizes improvements in the operations of the government of

the District of Columbia. H.R. 3797 was sponsored by Representative Tom Davis and cosponsored by Delegate Norton. H.R. 3797 was introduced in the House of Representatives on February 11, 2004, and referred to the House Committee on Government Reform (House Rept. 108–551). On June 21, 2004, H.R. 3797 was passed by the House. H.R. 3797 was received in the Senate and referred to the Governmental Affairs Committee on June 22, 2004. On July 14, 2004, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. On July 15, 2004, the Subcommittee favorably reported H.R. 3797. On July 21, 2004, by voice vote, the Governmental Affairs Committee ordered H.R. 3797 reported favorably without amendment. The Senate passed H.R. 3797 by unanimous consent on October 11, 2004. On October 30, 2004, the President signed the bill into law (P.L. 108–386). S. 1683—The Federal Law Enforcement Pay and Benefits Parity Act of 2003 provides for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees. S. 1683 was introduced by Senator Voinovich on September 30, 2003, and referred to the Governmental Affairs Committee. Senator Collins is a cosponsor. The bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on October 1, 2003 and reported favorably out of the Governmental Affairs Committee on October 22, 2003 (S. Rept. 108–207). S. 1683 passed the Senate on November 25, 2003 and passed the House on December 8, 2003. On December 19, 2003, the President signed the bill into law as (P.L. 108–196).

MEASURES FAVORABLY REPORTED BY THE SUBCOMMITTEE AND PASSED
BY THE SENATE

S. 101—This bill authorizes salary adjustments for U.S. justices and judges during fiscal year 2003 concurrently with the salary adjustment for the General Schedule for Compensation for Federal employees. S. 101 was introduced by Senator Hatch on January 7, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators DeWine, Leahy, Sessions, and Specter. S. 101 was discharged by the Governmental Affairs Committee on January 30, 2003, and passed the Senate by unanimous consent. On January 31, 2003, S. 101 was received in the House of Representatives and held at the desk. The companion bill, H.R. 16, was signed by the President and became law on February 13, 2003 (P.L. 108–6).

S. 1522—The GAO Human Capital Reform Act of 2003 amends chapter 7 of title 31, U.S. Code, to reform the employment authorities provided to the U.S. General Accounting Office (as it was then known). The bill also changes the name of the agency from the U.S. General Accounting Office to the U.S. Government Accountability Office. The bill was introduced by Senator Voinovich on July 31, 2003 and referred to the Governmental Affairs Committee. Senator Collins is a cosponsor of the bill. S. 1522 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on August 1, 2003 and was favorably reported by the Subcommittee on October 22, 2003. S.

1522 was favorably reported by the Governmental Affairs Committee on November 21, 2003, with amendments (S. Rept. 108–216). On November 24, 2003, S. 1522 passed the Senate by unanimous consent. The bill was received in the House of Representatives on November 25, 2003, and held at the desk. The companion bill, H.R. 2751, was signed by the President and became law on July 7, 2004 (P.L. 108–271).

MEASURES REFERRED TO THE SUBCOMMITTEE UPON WHICH HEARINGS
WERE HELD OR OTHER LEGISLATIVE ACTION WAS TAKEN

S. 593—The Reservists Pay Security Act of 2003 would amend chapter 55 of title 5, United States Code, to direct the Federal Government to pay the salary differential for Federal employees who are called to active duty in the uniformed services or the National Guard and lose pay as a result. S. 593 was introduced by Senator Durbin on March 11, 2003, and referred to the Governmental Affairs Committee. S. 593 was cosponsored by Senators Allen, Bingaman, Gregg, Kerry, Landrieu, Lautenberg, Leahy, Mikulski, and Sarbanes. S. 593 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on June 20, 2003. S. 593 was reported with an amendment in the nature of a substitute from the Governmental Affairs Committee on November 16, 2004 (S. Rept. 108–409).

S. 1267—The District of Columbia Budget Autonomy Act of 2003 would amend the District of Columbia Home Rule Act to provide that the District of Columbia budget passed by the Council of the District of Columbia shall be enacted without referral to the President or approval of Congress, unless it is the budget for a fiscal year which is a control year. It also amends the District of Columbia Home Rule Act to revise requirements of the Office of the Chief Financial Officer. S. 1267 was introduced by Senator Collins on June 16, 2003, and was referred to the Governmental Affairs Committee. S. 1267 was cosponsored by Senators DeWine, Durbin, Landrieu, Lieberman, Stevens, and Voinovich. On June 20, 2003, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia and was favorably reported by the Subcommittee on October 22, 2003. On November 25, 2003, the Governmental Affairs Committee reported S. 1267 favorably with an amendment (S. Rept. 108–212). On December 9, 2003, S. 1267 was passed by the Senate with an amendment by unanimous consent. On January 20, 2004, S. 1267 was referred to the House Committee on Government Reform, as well as the House Committees on Rules and Appropriations for consideration. S. 1668—The Commission on the Accountability and Review of Federal Agencies Act would establish a commission to conduct a comprehensive review of Federal agencies and programs and recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes. S. 1668 was introduced by Senator Brownback on September 26, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Alexander, Allard, Allen, Bunning, Burns, Chambliss, Cornyn, Craig, Crapo, Ensign, Enzi, Fitzgerald, Graham, Hatch, Hutchinson, Inhofe, Kyl, Lott, McCain, Miller, Murkowski, Nickles, Santorum, Sessions, Sununu, Talent, Thomas, and Voinovich. S. 1668 was referred to the Subcommittee on Oversight

of Government Management, the Federal Workforce and the District of Columbia on September 29, 2003. A Subcommittee hearing was held regarding S. 1668 on May 6, 2004. S. 2347—A bill to amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act. S. 2347 was introduced by Senator Voinovich on April 26, 2004, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Durbin, Jeffords, and Lieberman. On May 6, 2004, the bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. On May 11, 2004, the Subcommittee favorably reported S. 2347. On July 21, 2004, the Governmental Affairs Committee ordered S. 2347 reported favorably with an amendment that modified the reauthorization from a permanent reauthorization to a 5-year extension. On September 20, 2004, the bill was reported by Senator Collins with an amendment and a written report, S. Rept. 108–349, and placed on the legislative calendar. A related bill, H.R. 4012, described in the previous section, was enacted into law (P.L. 108–457).

MEASURES WHICH DID NOT ADVANCE BEYOND REFERRAL TO SUBCOMMITTEE

S. 46—A bill for the relief of Robert Bancroft of Hayden Lake, Idaho, to permit the payment of back pay for overtime incurred in missions flown with the Drug Enforcement Agency. S. 46 was introduced by Senator Craig on January 7, 2003, and referred to the Governmental Affairs Committee. The bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003.

S. 48—A bill to repeal the provisions of law that provides automatic pay adjustments for Members of Congress. S. 48 was introduced by Senator Feingold on January 7, 2003, and referred to the Governmental Affairs Committee. S. 48 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003.

S. 617—The No Taxation Without Representation Act of 2003 would provide for full voting representation in Congress for the citizens of the District of Columbia. S. 617 was introduced by Senator Lieberman on March 13, 2003, and referred to the Governmental Affairs Committee. S. 617 was cosponsored by Senators Clinton, Corzine, Daschle, Dayton, Dodd, Durbin, Edwards, Feingold, Jeffords, Kennedy, Kerry, Landrieu, Leahy, Mikulski, Sarbanes, Schumer, and Stabenow. S. 617 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 23, 2003.

S. 768—The Senior Executive Service Reform Act of 2003 would provide for reform of the Senior Executive Service and adjustment in the rates of pay of certain positions. S. 768 was introduced by Senator Voinovich on April 2, 2003, and referred to the Governmental Affairs Committee. Senator Stevens is a cosponsor of the bill. S. 768 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on April 30, 2003.

S. 837—The Commission on the Accountability and Review of Federal Agencies Act would establish a commission to conduct a comprehensive review of Federal agencies and programs and recommend the elimination or realignment of duplicative, wasteful, or outdated functions. S. 837 was introduced by Senator Brownback on April 9, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Alexander, Allard, Allen, Bunning, Cornyn, Ensign, Enzi, Fitzgerald, Graham, Hutchison, Inhofe, Kyl, McCain, Miller, Santorum, Sessions, Sununu, and Thomas. S. 837 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003. A revised version of this bill, S. 1668, was subsequently introduced.

S. 953—A bill to amend chapter 53 of title 5, United States Code, to provide special pay for board certified Federal Employees who are employed in health science positions, and for other purposes. S. 953 was introduced by Senator Landrieu on April 30, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Breaux, Inouye, and Kennedy. S. 953 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003.

S. 985—A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes. This bill was introduced by Senator Dodd on May 1, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by 61 senators. S. 985 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003.

S. 1339—A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service employees who perform essential services during severe weather events. S. 1339 was introduced by Senator Breaux on June 26, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Jeffords, Leahy, and Roberts. S. 1339 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on August 1, 2003.

S. 1414—The District of Columbia Personal Protection Act would amend the District of Columbia Code to provide that the D.C. Council's regulatory authority regarding firearms, explosives, and weapons in the District shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The bill would deny the District any authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms. S. 1414 was introduced by Senator Hatch on July 15, 2003, and referred to the Governmental Affairs Committee. The bill was cosponsored by Senators Allard, Allen, Baucus, Bond, Brownback, Bunning, Burns, Camp-

bell, Chambliss, Cornyn, Craig, Crapo, Domenici, Ensign, Enzi, Graham, Grassley, Hagel, Hutchison, Inhofe, Kyl, Lott, Miller, Murkowski, Nelson, Nickles, Reid, Sessions, Shelby, Stevens, Sununu, Talent, and Thomas. S. 1414 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on July 24, 2003.

S. 2041—The Fiscal Responsibility Act of 2004 would provide that pay for Members of Congress be reduced following any fiscal year in which there is a Federal deficit. S. 2041 was introduced by Senator Miller on February 2, 2004, and referred to the Governmental Affairs Committee. S. 2041 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on February 12, 2004.

S. 2064—The Administrative Law Judges Pay Reform Act of 2004 would increase the minimum and maximum rates of basic pay for administrative law judges by linking those rates to level III of the Executive Schedule (currently level IV). The bill would also increase the maximum rate of locality pay for administrative law judges to level II of the Executive Schedule (currently level III). S. 2064 was introduced by Senator Voinovich on February 11, 2004, and referred to the Governmental Affairs Committee. S. 2064 was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on February 12, 2004.

S. Con. Res. 1—A concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States. S. Con. Res. 1 was introduced by Senator Sarbanes on January 9, 2003, and was referred to the Governmental Affairs Committee. The resolution was cosponsored by Senators Akaka, Allen, Bingaman, Cantwell, Clinton, Corzine, Daschle, Dayton, Dorgan, Durbin, Johnson, Kennedy, Landrieu, Levin, Lieberman, Mikulski, Murray, Nelson, Reed, and Warner. The resolution was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on June 20, 2003.

S. Con. Res. 88—A concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States. S. Con. Res. 88 was introduced by Senator Sarbanes on February 9, 2004, and was referred to the Governmental Affairs Committee. The resolution was cosponsored by Senators Akaka, Allen, Cantwell, Collins, Corzine, Dayton, Dorgan, Durbin, Jeffords, Johnson, Kennedy, Levin, Lieberman, Mikulski, Murray, Snowe, and Warner. The resolution was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on February 12, 2004.

III. GAO REPORTS

The following reports were issued by the Government Accountability Office at the request of the Chairman and/or Ranking Member of the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia:

Performance Management Systems at the Department of Homeland Security, GAO-03-488 (03/21/2003)

Original Analysis of Motor Vehicle Accident Causation Data, GAO-03-436 (04/01/2003)

Human Capital: Building on the Current Momentum to Address High-Risk Issues, GAO-03-637T (04/08/2003)

OPM's Role in Assisting Agencies to Use Their Personnel Flexibilities, GAO-03-428 (05/09/2003)

Review of the District's 2002 Performance and Accountability Report, GAO-03-693 (05/15/2003)

Ways to Expedite the Federal Hiring Process, GAO-03-450 (05/30/2003)

Human Capital: DOD's Civilian Personnel Strategic Management and the Proposed National Security Personnel System, GAO-03-493T (06/03/2003)

Comparison of Federal Uniformed Police Forces Recruitment and Retention Rates, Pay, Benefits, Qualifications Requirements, Duties, and Working Conditions, GAO-03-658 (06/27/2003)

Merger Integration Practices, GAO-03-669 (07/02/2003)

Great Lakes: A Coordinated Strategic Plan and Monitoring System Are Needed to Achieve Restoration Goals, GAO-03-999T (07/31/2003)

Superfund Program: Current Status and Future Fiscal Challenges, GAO-03-850 (08/08/2003)

Competitive Sourcing: Implementation Will Be Challenging for Federal Agencies, GAO-03-1022T (08/26/2003)

Assessment of the Federal Emergency Management Agency Public Assistance for the New York Disaster, GAO-03-926 (09/05/2003)

Succession Planning in Other Countries, GAO-03-914 (09/15/2003)

Disaster Assistance: Federal Aid to the New York City Area Following the Attacks of September 11th and Challenges Confronting FEMA, GAO-03-1174T (09/24/2003)

DHS Efforts to Design a Personnel System and Involve Employees and Unions, GAO-03-1099 (09/30/2003)

Competitive Sourcing: Clarification on Implementation Issues, GAO-04-155R (10/31/2003)

Assessment of Federal Assistance for the 9/11 Disasters, GAO-04-72 (11/30/2003)

Effective Workforce Planning Practices in Federal Agencies, GAO-04-39 (12/11/2003)

Human Capital Challenges at Key Trade Agencies, GAO-04-301T (12/30/2003)

D.C. Family Court: Progress Has Been Made in Implementing Its Transition, But Action Needed to Improve Performance, GAO-04-234 (01/06/2004)

Pay for Performance: Lessons Learned From Personnel Demonstration Projects, GAO-04-83 (01/23/2004)

Managing for Results: Implementation of OMB's Program Assessment Review Tool (PART) During the FY 2004 Budget, GAO-04-174 (01/30/2004)

Select Agencies' Efforts to Design Training and Development Programs, GAO-04-291 (01/30/2004)

DHS Human Capital Regulations, GAO-04-479T (02/25/2004)

A Ten-Year Retrospective of the Government Performance Results Act, GAO-04-38 (03/10/2004)

SSA Disability: Commissioner Proposes Strategy to Improve Claims Process, But Faces Challenges, GAO-04-552T (03/29/2004)

Competitive Sourcing Goals and Strategies, GAO-04-367 (04/09/2004)

Human Capital Considerations Within Continuity of Operations Planning Efforts, GAO-04-384 (04/20/2004)

Additional Post-Hearing Questions Related to Proposed DHS Human Capital Regulations, GAO-04-617R (04/30/2004)

Definitional Issues in Unfunded Mandates Reform Act, GAO-04-637 (05/12/2004)

SES Performance Management Systems, GAO-04-614 (05/26/2004)

Nuclear Regulation: NRC Needs to More Aggressively and Comprehensively Resolve Issues Related to the Davis-Besse Nuclear Power Plant's Shutdown, GAO-04-415 (05/31/2004)

Analysis of Proposed DHS Human Capital Regulations, GAO-04-790 (06/18/2004)

Human Capital: Selected Agencies' Use of ASD Options for Human Capital Activities, GAO-04-679 (06/25/2004)

DC's Performance Report Dated March 2004, GAO-04-940R (07/07/2004)

United Nations: Observations on the Oil-for-Food Program and Areas for Further Investigation, GAO-04-953T (07/08/2004)

Human Capital: Building on the Current Momentum to Transform the Federal Government, GAO-04-976T (07/20/2004)

Assessing Progress in Human Capital Management—Posthearing Questions, GAO-04-1072R (09/03/2004)

Intelligence Reform: Human Capital Considerations Critical to 9/11 Commission's Proposed Reforms, GAO-04-1084T (09/14/2004)

Great Lakes Environmental Indicators, GAO-04-1024 (09/28/2004)

Intelligence Reform: Certain Human Capital Issues at the FBI and Other Intelligence Agencies Related to the 9/11 Commission Proposed Reforms(11/10/2004) No report

Experience of Foreign Countries Consolidating Their Food Safety Systems (2/22/05) No report

Overlap Within Federal Food Safety Functions (3/30/2005) No report

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CHAIRMAN: NORM COLEMAN

RANKING MINORITY MEMBER: CARL LEVIN

The following is the Activities Report of the Permanent Subcommittee on Investigations during the 108th Congress:

I. HISTORICAL BACKGROUND

A. SUBCOMMITTEE JURISDICTION

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S. Truman during the Second World War. Today, the Subcommittee is part of the Committee on Homeland Security and Governmental Affairs.¹

The Subcommittee has had nine chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980 and 1987–1994), William V. Roth of Delaware (1981–1986 and 1995–1996), Susan M. Collins of Maine (1997–2001); Carl Levin of Michigan (2001–2002); and Norm Coleman of Minnesota (2003–present).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction has expanded considerably since then, however, today encompassing investigations within the broad ambit of the parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) criminality or improper practices in labor-management relations; (c) organized criminal activities affecting interstate or international commerce; (d) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and use of offshore banking and corporate facilities to carry out criminal objectives; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned with national security; (f) energy shortages, energy pricing, management of government-owned or controlled energy supplies; and relationships with oil producing and consuming countries; and (g) the operations and management of

¹ In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, and again in 2005, to the Committee on Homeland Security and Governmental Affairs, its present title.

Federal regulatory policies and programs. While technically reduced to a subcommittee of a standing committee, the Subcommittee has long exercised its authority as almost a separate entity, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

The Subcommittee acquired this sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for 3 years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee's jurisdiction and files were transferred to the Subcommittee on Investigations, greatly enlarging the latter body's investigative authority in the labor-management area.

The Subcommittee's jurisdiction expanded further during the 1960s and 1970s. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings described below, examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee's jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate government operations involving the control and management of energy resources and supplies.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

B. PAST INVESTIGATIONS

Armed with its broad jurisdictional mandate, the Subcommittee has in recent years conducted investigations into a wide variety of topics of public concern, ranging from corporate misconduct, including the Senate's most in-depth investigation of the collapse of the Enron Corporation, to gasoline price gouging, predatory lending, and tax evasion. The Subcommittee has also conducted investigations into numerous aspects of criminal wrongdoing, including

money laundering, the narcotics trade, child pornography, labor racketeering, and organized crime activities. The Subcommittee has also devoted itself to investigating allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from food safety to Medicare fraud and mortgage “flipping.” Most recently, under the leadership of Senator Coleman, the Subcommittee has focused on exposing corruption problems in the United Nations’ Oil-for-Food Program, port and supply-chain security, credit counseling abuses, and Federal contractors with billions of dollars in unpaid taxes. At Senator Levin’s request, the Subcommittee has also examined the role of tax professionals in designing and marketing abusive tax shelters, transparency and pricing problems in U.S. crude oil markets, and the failure of U.S. bank regulators to crack down on possible money laundering practices at financial institutions like Riggs Bank.

In 1998, the Subcommittee marked the fiftieth anniversary of the Truman Committee’s conversion into a permanent subcommittee of the U.S. Senate.² In the half-century of its existence, the Subcommittee’s many successes have made clear to the Senate the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

(1) Historical Highlights

The Subcommittee’s investigatory record as a permanent Senate body began under the Chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee’s role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. The last U.S. Senator to wear a long frock coat and wing-tipped collar, Mr. Hoey was a distinguished southern gentleman of the old school. Under his leadership, the Subcommittee won national attention for its investigation of the so-called “five percenters,” notorious Washington lobbyists who charged their clients five percent of the profits from any Federal contracts they obtained on the client’s behalf. Given the Subcommittee’s jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the “five percenters” investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Harry Truman’s staff. In any event, the fledgling Subcommittee was off to a rapid start.

What began colorful soon became contentious. When Republicans returned to the Majority in the Senate in 1953, Wisconsin’s junior Senator, Joseph R. McCarthy, became the Subcommittee’s Chair-

²This anniversary also marks the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of 20 years has elapsed, the Permanent Subcommittee on Investigations, as an investigatory body, may close its records for 50 years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee’s earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

man. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican Senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Senator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal from the Subcommittee, replacing her with the newly elected Senator from California, Richard M. Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-communist investigations, culminating in an inquiry into communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of these hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the Army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, in fact, the Senate censured Senator McCarthy for unbecoming conduct; in the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began 18 years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed the young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Subcommittee were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the Nation, as well as leading to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by now become Attorney General in his brother's Administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee's investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provision

of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture's grain storage program, securities fraud, and civil disorders and acts of terrorism. From 1962 to 1970, the Permanent Subcommittee on Investigations conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon's ill-fated TFX ("tactical fighter, experimental"). In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry "Scoop" Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee's Chairman. During these years, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee's founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, was more active on the Committee than Chairman Jackson, who was often distracted by his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.³ Senator Percy worked closely in this regard with Georgia Democrat Sam Nunn, who subsequently succeeded Senator Jackson as Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension frauds.

The regular reversals of political fortunes in the Senate of the 1980s and 1990s saw Senator Nunn trade Chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These 15 years saw a strengthening of the Subcommittee's bipartisan tradition in which investigations were initiated by either the Majority or Minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, off-shore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into Federal drug policy, the global spread of chemical and biological weapons, abuses in Federal student aid programs, computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee's first female counsel, Eleanor Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995. Ms. Hill subsequently served as Inspector General at the Department of Defense.

(2) Recent Investigations

In January 1997, Republican Senator Susan Collins of Maine became the first woman to Chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Minority Member. After Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him in January 1999 as the Ranking Minority Member. During Senator Collins's Chairmanship, the Sub-

³ It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite their partisan differences, but Senator Percy was unusually active in the Minority—a role that included chairing one investigation of the hearing aid industry.

committee conducted a number of investigations affecting Americans in their day-to-day lives, including investigations into mortgage fraud, phony credentials obtained through the internet, deceptive mailings and sweepstakes promotions, day trading of securities, and securities fraud on the internet. Senator Levin, while Ranking Minority Member, initiated an investigation into money laundering, and in 1999, the Subcommittee held a hearing on money laundering issues affecting private banking. Senator Collins continued to Chair the Subcommittee until June 2001, when the Senate Majority party changed hands, and Senator Levin assumed the Chairmanship. Senator Collins, in turn, became the Ranking Minority Member.

During the 107th Congress, both Senator Collins and Senator Levin chaired the Subcommittee. In her 6 months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross border fraud, the improper operation of tissue banks, and Federal programs designed to fight diabetes. During the following 18 months, Senator Levin led a bipartisan Subcommittee investigation of the Enron Corporation, which had collapsed into bankruptcy just before Senator Levin became the Chairman. Senator Levin also advanced the investigation he had initiated while Ranking Minority Member into issues related to money laundering and opened new investigations into offshore tax havens and tax scams, border security, and the pricing of gasoline and other fuels.

In January 2003, Republican Senator Norm Coleman of Minnesota became the Chairman of the Permanent Subcommittee on Investigations. During the 108th Congress, Chairman Coleman held 15 hearings on disparate topics of national and global concern, including: Illegal file sharing on peer-to-peer networks, abusive tax shelters, abusive practices in the credit counseling industry, the dangers of purchasing pharmaceuticals and controlled substances over the Internet, money laundering, foreign corruption, the effectiveness of the Patriot Act, Federal contractors with billions of dollars in unpaid taxes, SARS, border security, and how Saddam Hussein abused the United Nation's Oil-for-Food Program and utilized oil to reward politicians. The following pages describe the Subcommittee's work during the 108th Congress.

II. SUBCOMMITTEE HEARINGS DURING THE 108TH CONGRESS

A. *Border Security: How are State and Local Officials Coping with the New Levels of Threat? (May 12, 2003, Field Hearing held at Anoka-Hennepin Technical College, Anoka, MN)*

The first hearing held by the Subcommittee during the 108th Congress, under the Chairmanship of Senator Norm Coleman, was a field hearing in Anoka, MN, on May 12, 2003. Under the Chairmanship of Senator Coleman, the Subcommittee held a hearing examining the developing relationship between the Department of Homeland Security (DHS) and State and local government, focusing on DHS grants provided to such governments. Federal law at the time gave DHS little guidance concerning the distribution of grant money. The main purpose of the hearing was to evaluate the implementation of security measures at a local level, specifically in Minnesota.

While securing our Nation's borders is of paramount concern, providing an efficient border is also essential to tourism and international trade. At the Federal level, strategies and systems have been designed to prevent terrorists and their weapons from entering the United States. These concepts, which balance security with the need to facilitate the flow of trade and travel, include the US-VISIT system that replaced the preexisting entry and exit system at the U.S. border. The Department of Homeland Security had also implemented the Container Security Initiative and the Custom-Trade Partnership Against Terrorism to identify high-risk cargo containers and scan them with non-intrusive inspection technology, such as x-ray and gamma ray systems.

At top priority of DHS at that time was to develop an effective communications system to coordinate the efforts of State and local officials with DHS. Improving and integrating radio networks and making databases available to State and local officials increase the ability of law enforcement to respond to specific threats.

Anne Lombardi, Interim Director of Field Operations in the Chicago Bureau of Customs and Border Protection, gave testimony relating to the current efforts to integrate Federal, State and local authorities in responding to simulated attacks under the TOPOFF program, and as to the implementation of the lessons learned from those exercises.

The second witness panel included State and local officials in Minnesota, each speaking to their general level of readiness to deal with terrorist threats. All four officials testified to the need for improved communications in the way of radios and increased communication with Federal authorities.

Rich Stanek, Commissioner of Public Safety and Director of Homeland Security for the State of Minnesota, testified that funding was adequate, but that a relaxation of the restrictions and limitations on spending would allow Minnesota to make better decisions on providing for the safety of its citizens. Patrick McGowan, Sheriff of Hennepin County, discussed the formation of Regional Response Teams, strategically regionalized to consolidate and allocate resources effectively.

Ardell Brede, Mayor of Rochester, MN, testified that his city experienced a tremendous negative economic impact that was caused by the dramatic decrease in international patients at the Mayo Clinic due to the increase in time that it takes to process a visa. Furthermore, International Falls is "desperately in need of funding for homeland security situations," said Paul Nevanen, Director of the Koochiching Economic Development Authority in International Falls, who testified that costs associated with emergency preparedness have doubled in International Falls since September 11, as a direct result of additional training for emergency personnel.

The consensus among the witnesses on the final panel, which included industry security officials from seaports, airports, railways and trucking, was that, while more work and more funding was necessary, each industry is up to the security challenges of a post-September 11 world.

Captain Ray Skelton, Environmental and Government Affairs Director of the Duluth Seaway Port Authority in Duluth, MN, testified that, although it was impossible to secure the 49 miles of shoreline at the port in Duluth, the implementation of improved

identification and documentation has served to reduce security threats prior to ships' arrival at port. Steve Leqve, Airport Manager for Rochester International Airport, desired the maintenance of a Federal presence at the airport, rather than see a reduction in TSA agents for airports of his size. He further noted that he would like to see more local decision-making within the TSA to allow for the differences between different airport operations.

Michael Curry, Director of Security for the Canadian Pacific Railway in Minneapolis, testified that the rail industry had implemented its own rail security task force to independently monitor security risks, but noted the importance of a long-term commitment to rail security and continued cooperation with Federal authorities. John Hauslauden, President of the Minnesota Trucking Association in St. Paul, testified as to the need for an efficient border, applauded the introduction of non-invasive scanning technology, and stressed the need for higher concern for stolen cargo.

B. SARS: How Effective is the State and Local Response? (May 21, 2003)

On May 21, 2003, the Subcommittee held a hearing chaired by Senator Coleman on the Nation's preparedness to deal with possible outbreaks of severe acute respiratory syndrome (SARS). SARS emerged as a force to be reckoned with, not only as a tragedy taking peoples' lives, but delaying others as well. Since SARS emerged in China, adoptions of Chinese children by Americans were stopped. Toronto sustained substantial economic damage because of potential unnecessary reactions to SARS on the part of organizations responsible for addressing this disease.

At the national and international levels, agencies had to develop information quickly about the characteristics of the disease in order to treat patients and prevent its spread. Local doctors needed to know how to recognize that something new was happening and who to turn to for information and support. Most importantly, information from national and international health organizations must be transmitted back to local officials so that doctors, airline attendants, researchers and average citizens know what to do to protect themselves.

The May 2003 hearing focused on current levels of readiness for a future SARS outbreak in the United States, and the need to continue to develop a national response, predicated on the understanding that the bulwark of any response will be at the local level.

The first witness panel consisted of Federal health agency officials who commented on what they have learned from the international health crisis, their current level of readiness, and what more needed to be done to provide protection from a SARS outbreak. Julie L. Gerberding, M.D., M.P.H., Director of the Center for Disease Control (CDC) and Prevention in the Department of Health and Human Services testified that the CDC is ahead of the curve in terms of current preparedness, but cautioned that many hospitals and clinics may not yet have the ability to adequately quarantine suspected SARS cases, and that the communications infrastructure between the national and local level was still developing.

Anthony S. Fauci, Director of the National Institute of Allergy and Infectious Diseases at the National Institutes of Health in the

Department of Health and Human Services testified as to the research progress being made in identifying and combating SARS, commenting that the project to create successful therapies and vaccines was still in its infancy. Michael T. Osterholm, Ph.D., M.P.H., Director of the Center for Infectious Disease Research and Policy at the University of Minnesota testified that luck played a large role in the United States averting a public health disaster like the one in Toronto, and noted the significant likelihood of a future SARS epidemic on U.S. soil.

The second witness panel included State and local health officials, each speaking to their experiences in dealing with possible SARS cases and, responding to questions regarding their readiness, sounded the call for continued and increased cooperation between national organizations and those battling SARS on the front lines. Rodney N. Huebbers, President and CEO of Loudoun Hospital Center of Loudoun Healthcare, Inc. in Loudon County of Leesburg, VA, commented that the additional costs associated with training and supplies in dealing with disease emergencies prevented him from meeting the expectations of his community.

Thomas R. Frieden, M.D., M.P.H., Commissioner of New York City Department of Health and Mental Hygiene echoed that sentiment, testifying that the spread of SARS could rapidly overwhelm their ability to respond because Federal funding "is not nearly enough." Mary C. Selecky, Secretary of the Washington State Department of Health in Olympia, WA, and President of the Association of State and Territorial Health Officials discussed the need for increased preparedness, public health capacity, collaboration between national and local organizations, and addressed the public health work force shortage facing the nation.

The final witness panel addressed the practical ability of health care providers and health care companies to minimize the concerns and vulnerabilities associated with a possible SARS outbreak. Lawrence O. Gostin, Director of the Center of Law and the Public's Health at Georgetown University Law Center testified to the legal challenges of mass quarantines, addressing practical and ethical concerns, and introduced model State legislation that would address those concerns without running afoul of constitutional limits.

Bruce R. Cords, Ph.D., Vice President of Environment, Food Safety and Public Health at Ecolab Inc. in St. Paul, MN, testified to the current potency of disinfectants, acknowledging the practical problem that even if cleaning products can combat SARS, people using the products must also be trained as to what and how to clean. Vicki Grunseth, Chair of the Metropolitan Airports Commission in Minneapolis, MN, discussed the current measures being taken by large airports to anticipate a SARS outbreak, and outlined plans by airline and airport officials to deal with possible cases.

C. Patient Safety: Instilling Hospitals with a Culture of Continuous Improvement (June 11, 2003)

On June 11, 2003, under the Chairmanship of Senator Coleman, the Subcommittee held a hearing on patient safety with the aim of reducing hospital error, saving lives and reducing injury. The Centers for Disease Control estimated that, between 1998 and 2003, as many as 15,000 people had foreign objects left inside their bodies

after surgery. In 1999, the Institutes of Medicine reported that between 44,000 and 98,000 Americans die each year as a result of preventable medical errors at a cost to the health system of between \$37 billion and \$50 billion per year. Doctors and nurses are in the unenviable position where their mistakes can easily have fatal consequences. While a complete solution to human fallibility is impossible, this hearing sought to present witnesses with experience in systematic solutions to the problem of patient safety. It found that implementing system-wide solutions would help to reduce error within the health care industry and minimize the human cost of those errors that do occur by learning from past mistakes and collaborating in the production of a proactive solution.

The first witness, Roxanne J. Goeltz of Burnsville, MN, related the story of her brother's sudden death while in the hospital and the dearth of information or explanation by hospital staff to her relatives regarding the circumstances of his death. She testified to numerous lapses, such as misdiagnosis of his condition and allowing her parents to see their deceased son with no one to support them, and stated that if a standardized healthcare protocol were initiated these kinds of mistakes could be minimized or eliminated. She also discussed her subsequent involvement in the Patient and Family Advisory Council and shared her thoughts on the current state of the health care system. Ms. Goeltz emphasized the role of the consumer in making intelligent healthcare decisions, and made several suggestions as to what the Federal Government could do to encourage a more effective health care environment.

The second panel consisted of national health administrative officials testifying to current national efforts to decrease physician error and patient injury. James P. Bagian, M.D. P.E., Director of the National Center for Patient Safety in the U.S. Department of Veterans Affairs, discussed the need for real leadership—not just emails and shifting policies—to direct the patient safety movement. Carolyn M. Clancy, M.D., Director of the Agency for Healthcare Research and Quality at the U.S. Department of Health and Human Services, focused on the need to stop blaming physicians for problems and truly address the system-wide changes that are required to improve healthcare across the board. She noted that AHRQ had been developing programs designed to do just that. Dennis S. O'Leary, M.D., President of the Joint Commission on Accreditation of Healthcare Organizations, testified that the accreditation process at that time incorporated a systems approach to managing risk that was borrowed from industries in the manufacturing world. He commented that such adaptations had been extremely helpful in developing solutions to the patient safety problem.

The final panel consisted of a variety of local, State, and private interests each speaking to the urgent need for systematic healthcare reform and the baby steps that had already been taken by the industry in that direction. David R. Page, President and CEO of Fairview Health Services, related an account of a recent system failure at his own hospital and echoed the need for a process improvement system of the sort that 3M, Motorola, Toyota, and other industry leaders had in place. Dianne Mandernach, Commissioner of the Minnesota Department of Health, encouraged the development of a national system that would aid in the identification of trends and encouraged a more collaborative response to improv-

ing patient safety. Robert E. Krawisz, Executive Director of the National Patient Safety Foundation, testified to the enormous cost burden that poor healthcare has on the industry, and encouraged more active patient involvement in their own care to help fill the gaps in the healthcare system as it continues to improve. Suzanne Delbanco, Ph.D., Executive Director of The Leapfrog Group, discussed her groups' effort to inform and educate the 33 million employees of the 140 employers whom she represented so that they understand how quality can vary widely between healthcare institutions, and the need to make informed healthcare decisions.

D. SARS: Best Practices for Identifying and Caring for New Cases (July 30, 2003)

Under the Chairmanship of Senator Coleman, the Subcommittee held the second in a series of hearings on the national response to the international epidemic of severe acute respiratory syndrome ("SARS"). A GAO report, released in conjunction with the hearing on July 30, 2003, detailed the readiness of the Federal Government to deal with a national SARS outbreak. The GAO concluded that, although preparation efforts are underway at every level, implementing those plans during a large-scale outbreak may prove difficult due to limitations in both hospital and workforce capacity that could result in overcrowding, as well as potential shortages in health care workers and equipment.

Experts agree that the possibility of an outbreak of SARS in the United States remains significant and that just one confirmed case in an American city would require tracking down potentially hundreds of possible contacts across the country who may also be infected. The hearing focused on the need for further education of the general public, for continued vigilance by State and local health officials, and the effective coordination of a national response at the Federal level.

The first witness, Marjorie E. Kanof, M.D., Director of Health Care-Clinical and Military Health Care Issues at the U.S. General Accounting Office, testified to the general characteristics of SARS transmission and to the general preparedness of the United States to respond to a widespread outbreak of SARS, including a checklist prepared by the CDC for distribution to hospitals across the country. Dr. Kanof explained that, although the outbreak was believed to be contained, it was expected to recur during the fall and winter months. She further stated that, during the first outbreak, experts maintained that well-established infectious disease control measures played a pivotal role in containing the outbreak.

Dr. Kanof also testified that, despite the effective response, federal, State and local authorities all agreed to the necessity of preparing for the possibility of a large-scale SARS resurgence. She noted that, at that time, no definitive test existed to identify SARS during the early phase of the illness. Furthermore, Dr. Kanof testified that most hospitals lack the capacity to respond to large-scale infectious disease outbreaks; and few had adequate staff, medical resources and equipment needed to care for the potentially large number of patients that may need treatment. She warned that patients placed in isolation or quarantine required additional resources that could severely strain the resources of local health authorities.

The second witness, James M. Hughes, M.D., Director of the National Center for Infectious Diseases at the Centers for Disease Control and Prevention at the U.S. Department of Health and Human Services, discussed the national response. Dr. Hughes testified that, despite a successful initial response involving intense collaboration among public health officials at the local, State and national levels, the clinical and academic communities, members of professional organizations and industry representatives, much remained to be done. According to Dr. Hughes, the CDC was developing a research agenda to help build the scientific base to ensure that the global clinical and public health communities have the necessary knowledge and tools to meet the challenges of SARS. Dr. Hughes also testified that the CDC had also established a SARS preparedness task force to develop effective response mechanisms to rapidly and efficiently detect the introduction of SARS into the United States and adapt easily to meet a range of local needs. In response to a question posed by Senator Coleman on the impact of an outbreak on rural America, Dr. Hughes stressed the importance of public awareness and local preparedness starting and ending with increased education, preventing unnecessary panic and dramatically improving the response to an outbreak.

E. Privacy and Piracy: The Paradox of Illegal File Sharing on Peer-To-Peer Networks and the Impact of Technology on the Entertainment Industry (September 30, 2003)

On September 30, 2003, the Subcommittee held a hearing, Privacy and Piracy: The Paradox of Illegal File Sharing on Peer-To-Peer Networks and the Impact of Technology on the Entertainment Industry, with the aim of creating future foundations to accommodate the developing use of technology distributing music and movies, while maintaining copyright laws that protect creative work. Sixty to ninety million people use peer-to-peer (P2P) networks to illegally trade copyrighted material, presenting a growing problem as advanced technology makes downloading files free and easy. On September 8, 2003, the Recording Industry Association of America (RIAA) launched its first round of copyright infringement lawsuits in an effort to deter people from illegal downloading. There is no law to regulate RIAA's use of subpoenas against potential offenders. The Subcommittee expressed concern over RIAA's broad powers to issue subpoenas to individual users when perhaps the subpoenas should target the P2P companies, such as Kazaa.

At the hearing, Mitch Bainwol, Chairman and Chief Executive Officer, Recording Industry Association of America, testified that in 2003 domestic revenue in the music industry decreased from \$15 to \$11 billion, while international revenues suffered an even greater decline, due to the sharing of illegal audio files on the Internet. The RIAA attempted to inform people of illegal downloading by way of emails, instant messages, and websites, but later resorted to enforcement activities. Mr. Bainwol proposed that to alleviate the problems associated with illegal downloading, society must understand right versus wrong, and the market for legal downloads must become more competitive.

Jack Valenti, President and Chief Executive Officer, Motion Picture Association of America (MPAA), testified that the movie industry is America's greatest trade export, five percent of America's eco-

conomic output, and a big part of economic growth. MPAA increased law enforcement programs against illegal file sharing, and embarked upon a public persuasion and education campaign to teach children what copyright means and how it is a benefit to the United States. Mike Negra, President of Mike's Video, Inc., testified that in 2000, the year Napster was formed, his company's video and music sales decreased by about 23 percent.

On the second witness panel, witnesses agreed that the general public does not understand file sharing is wrong, let alone a crime. Jonathan D. Moreno, Director, Center for Biomedical Ethics at the University of Virginia, explained that those who illegally download copyrighted material do not have direct contact with the artists who own it, making the two groups "moral strangers." Further, because file sharing is marketed by P2P organizations and is easy to achieve, people are less likely to view downloading copyrighted files as a crime.

The Subcommittee also took testimony from L.L. Cool J, Recording Artist, New York, NY; Alan Morris, Executive Vice President, Sharman Networks Limited; Derek S. Broes, Executive Vice President of Worldwide Operations, Altnet; Chris Gladwin, Founder and Chief Operating Officer, Full Audio, Inc.; Lorraine Sullivan, New York, NY; Chuck D, Record Artist, Author, Activist; and James V. DeLong, Senior Fellow and Director, Center for the Study of Digital Property, The Progress and Freedom Foundation.

F. SARS: Is Minnesota Prepared? (October 8, 2003, Field Hearing at St. Louis Park High School, St. Louis Park, MN)

On October 8, 2003, at St. Louis Park High School in St. Louis Park, MN, the Subcommittee held the third in a series of hearings designed to assess the readiness of the United States to respond to a widespread outbreak of severe acute respiratory syndrome ("SARS") within our borders. The previous hearings focused primarily on the need for a national response effort and, once a response was formulated, what must be done to successfully implement that response at the national level. The October 8 hearing focused specifically on the State and local response within Minnesota, and on the concrete steps that had to be taken to ensure that the State was prepared for new cases of SARS.

The first witness panel consisted of State health officials testifying about their preparations and readiness to handle a SARS outbreak in Minnesota. Dianne Mandernach, Commissioner of the Minnesota Department of Health in St. Paul, MN, discussed efforts at the State level to maintain and strengthen disease surveillance. She noted that an effective hospital procedure to contain the spread of SARS and consistent communication with local health practitioners and the general public was critical to a successful campaign against communicable disease. Michael T. Osterholm, Ph.D. M.P.H., Director of the Center of Infectious Disease Research and Policy and Professor at the School of Public Health at the University of Minnesota, testified that, although there is extensive data on the initial SARS outbreak, the challenge would be to translate that information into meaningful State and local preparedness plans, and identify the necessary resources for comprehensive implementation of those plans, should SARS return.

The second witness panel included local health hospital and school officials who testified more directly to local response plans and experiences with implementation. Jeff Spartz, Administrator of Hennepin County Medical Center, discussed the Minneapolis-St. Paul Metropolitan Hospital Compact, a group of 27 hospitals that have developed a regional plan for dealing with infectious disease emergencies, but cautioned that certain facilities such as laboratories and ICU units would be almost immediately overwhelmed should a significant outbreak occur. Mary Quinn, Vice President of Patient Care Services at Northfield Hospital, and Ann Hoxie, Student Wellness Administrator for the St. Paul Public Schools, both discussed their responses to possible SARS cases. Each felt that they had sufficient information, but both were concerned with the legal and ethical problems surrounding quarantine and isolation. Ms. Hoxie also expressed concern with the large percentage of students who did not have health coverage, relegating the front lines of the fight against infectious disease to the school nurse.

Debra Herrmann, R.N., P.H.N., L.S.N., District Lead Nurse for the Marshall School District, testified that, although there has been a great deal of information from the CDC and the Department of Health, it has been mainly medically oriented and contains little by way of information and procedures applicable to schools. She also testified that the schools did not have the funds to develop and implement response protocols. Rob Benson, Superintendent of the Floodwood School District in Floodwater, MN, explained their dependence upon the school nurse in a small, rural town. He expressed dismay over the fact that his school district could not afford to employ a school nurse full-time and that the best information that was available was a newsletter that contained information gleaned from the CDC website.

G. DOD's Improper Use of First and Business Class Airline Travel (November 6, 2003)

The Subcommittee working in conjunction with the Government Accountability Office (GAO) initiated an investigation to determine if Federal employees were complying with Federal travel requirements. Between 2001 and 2003, the GAO and Inspector Generals at several Federal departments and agencies had reported on abuses related to the use of government-issued travel cards. The first part of the Subcommittee's investigation focused on the Department of Defense (DOD).

The Subcommittee's investigation determined that DOD personnel are generally required to travel at the least expense to the government. In the case of air travel, the least costly travel class is generally coach class. First or business class travel is available to DOD employees when specified exceptional circumstances warrant the additional cost. Any request for first or business class travel by a DOD employee must be justified by the traveler and authorized by an appropriate official.

Within DOD, travel for military personnel is governed by the Joint Federal Travel Regulations, and travel for civilian personnel is governed by the Joint Travel Regulations. These regulations set forth the specific circumstances that justify the use of first or business class travel. For example, first class travel may be justified if other classes of travel are not reasonably available, or if there are

exceptional security circumstances, or if a medically substantiated handicap or physical impairment requires the use of a premium class of travel. Business class travel may be justified for eight different reasons, such as regularly scheduled flights only provide premium class accommodations, or coach class is not available and the travel is so urgent it cannot be postponed, or travel is outside the United States and exceeds 14 hours. The traveler is required to cite the appropriate justification before the travel is authorized. It is usually only approved by an official who is senior to the employee who is traveling.

During the investigation the Subcommittee also determined that all Federal agencies annually report their first class travel to the Office of Management and Budget (OMB) pursuant to OMB Bulletin 93-11. This report provides the only government-wide mechanism to monitor the use of first class travel and deter abuse. Business class travel is not reported in this manner.

At a Subcommittee hearing on November 6, 2003, Gregory D. Kutz of GAO testified that during fiscal years 2001 and 2002, DOD spent almost \$124 million on about 68,000 tickets where at least one leg of a trip was booked in first or business class. GAO further testified that 72 percent of DOD's premium travel in these years was not authorized and 73 percent was not properly justified. About half of the people who abused the travel regulations were civilian supervisors, managers, executives, or senior military officers. According to GAO's testimony, DOD did not have accurate and complete data on the extent of premium class travel and performed little or no monitoring of this travel. GAO estimated that DOD could save tens of millions of dollars per year through better oversight that assured adherence to DOD's travel policies and regulations. GAO also testified that 98 percent of the travel abuse related to the use of business class travel, which can be as costly as first class travel.

In their testimony, DOD officials Charles S. Abell, Assistant Secretary of Defense (Force Management Policy) and Lawrence J. Lanzillotta, Principal Deputy Under Secretary (Comptroller) agreed that more aggressive action needed to be taken in this area. DOD began updating its travel regulations to more clearly state when first or business class travel can be authorized, and emphasized that it must only be used when exceptional circumstances warrant the additional cost.

Following the hearing, on November 25, 2003, Chairman Coleman wrote to the Director of OMB and requested that the annual Federal travel report be expanded to include business class travel. Given that 98 percent of DOD's abusive travel occurred in business class, the annual first class Federal travel report would potentially only have identified two percent of DOD's abuse.

H. U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals (November 18 and 20, 2003)

On November 18 and 20, 2003, the Subcommittee held 2 days of hearings examining the role played by accountants, lawyers, investment advisors, and bankers to develop, market, and implement abusive tax shelters to reduce and eliminate Federal and State tax taxes. Abusive tax shelters are complex financial transactions in

which a significant purpose is to reduce and eliminate Federal, State or local taxes in a manner not intended by the law.

The hearings were the culmination of a Subcommittee investigation that was initiated under Senator Levin with the support and concurrence of Chairman Coleman, and which lasted for close to 2 years. The Subcommittee determined that, by 2003, the U.S. tax shelter industry was no longer focused primarily on providing individualized tax advice to persons who initiate contact with a tax advisor. Instead, the industry focus had expanded to developing a steady supply of generic "tax products" that were aggressively marketed to multiple clients. In short, the tax shelter industry had moved from providing one-on-one tax advice in response to tax inquiries to also initiating, designing, and mass marketing tax shelter products to hundreds of taxpayers.

The investigation also found that numerous respected members of the American business community were heavily involved in the development, marketing, and implementation of generic tax products whose objective was not to achieve a specific business or economic purpose, but to reduce or eliminate a client's U.S. tax liability. By 2003, dubious tax shelter sales were no longer the province of shady, fly-by-night companies with limited resources. They had become big business, assigned to talented professionals at the top of their fields and able to draw upon the vast resources and reputations of the country's largest accounting firms, law firms, investment advisory firms, and banks.

The Subcommittee's investigation and hearings focused on generic tax products developed and promoted by KPMG, PricewaterhouseCoopers, and Ernst and Young, three of the top four accounting firms in the United States. During the 1990s, in response in part to the stock market boom and the proliferation of stock options, these firms and others designed and developed tax products used to shelter gains from taxation. Tax products examined by the Subcommittee included: KPMG's Bond Linked Issue Premium Structure (BLIPS), Foreign Leveraged Investment Program (FLIP), Offshore Portfolio Investment Strategy (OPIS), and S-Corporation Charitable Contribution Strategy (SC2); PricewaterhouseCoopers's Bond and Option Sales Strategy (BOSS); and Ernst and Young's Contingent Deferred Swap (CDS). Each of these products generated hundreds of millions of dollars in phony tax benefits for taxpayers, using a series of complex, orchestrated transactions, structured finance, and investments with little or no profit potential.

The investigation examined a number of professional firms that assisted in the development, marketing, and implementation of the tax shelters promoted by the three accounting firms. Leading banks, including Deutsche Bank, HVB, and UBS, provided multi-billion dollar credit lines essential to the orchestrated transactions. Wachovia Bank, acting through First Union National Bank, made client referrals to KPMG and PricewaterhouseCoopers, playing a key role in facilitating the marketing of potentially abusive or illegal tax shelters. Leading law firms, such as Brown and Wood, which later merged with another firm to become Sidley Austin Brown and Wood, provided favorable tax opinions advising that certain abusive tax shelters were permissible under the law. The evidence also suggests collaboration between Sidley Austin Brown and Wood and KPMG on the OPIS and BLIPS tax shelters, includ-

ing the issuance of allegedly independent opinion letters on BLIPS by KPMG and the law firm which contained numerous virtually identical paragraphs. Two investment advisory firms, Presidio Advisory Services and Quellos Group (formerly doing business as Quadra Advisors and QA Investments), also assisted in the design, marketing, and implementation of tax shelters promoted by KPMG. Additionally, Quellos served as the investment advisor for PricewaterhouseCooper's version of FLIP.

At the November 18 hearing, the Subcommittee heard testimony from three tax experts: Debra Peterson, Tax Counsel, California Franchise Tax Board; Mark Watson, former Partner, KPMG LLP; and Calvin Johnson, Professor, The University of Texas at Austin School of Law. The Subcommittee also heard testimony from numerous tax professionals from various accounting firms. Tax professionals from KPMG LLP included: Philip Wiesner, Partner in Charge, Washington National Tax Client Services; Jeffrey Eischeid, Partner, Personal Financial Planning; Lawrence DeLap, retired National Partner in Charge, Department of Professional Practice-Tax; Lawrence Manth, former West Area Partner in Charge, Stratecon; and Richard Smith Jr., Vice Chair, Tax Services. Accounting firm PricewaterhouseCoopers was represented by Richard Berry, Jr., Senior Tax Partner. Accounting firm Ernst and Young LLP was represented by Mark Weinberger, Vice Chair, Tax Services.

At the November 20 hearing, the Subcommittee heard testimony from three lawyers: Raymond Ruble, former Partner, Sidley Austin Brown and Wood LLP; Thomas Smith, Jr., Partner, Sidley Austin Brown and Wood LLP; and N. Jerold Cohen, Partner, Sutherland Asbill and Brennan LLP. The Subcommittee also heard testimony from William Boyle, former Vice President, Structured Finance Group, Deutsche Bank AG; Domenick DeGiorgio, former Vice President, Structured Finance, HVB America, Inc.; John Larson, Managing Director, Presidio Advisory Services; and Jeffrey Greenstein, Chief Executive Officer, Quellos Group LLC. Lastly, the Subcommittee heard testimony from three regulators: Mark Everson, Commissioner, Internal Revenue Service; William McDonough, Chairman, Public Company Accounting Oversight Board; and Richard Spillenkothen, Director, Division of Banking Supervision and Regulation, The Federal Reserve.

In connection with the November 2003 hearings, the Subcommittee's Minority staff issued a report detailing the transactions developed and promoted by KPMG, and involving the activities of Deutsche Bank, HVB, UBS Bank, Sidley Austin Brown and Wood, Wachovia Bank, Quellos, and Presidio Advisory Services. Following the hearings, the Subcommittee issued a bipartisan Senate Report in April 2005, which included the findings and text of the earlier Minority staff report and also detailed transactions involving Ernst and Young and PricewaterhouseCoopers, activities of Sutherland Asbill and Brennan, and additional details relating to activities by Presidio Advisory Services, Quellos, Sidley Austin Brown and Wood, HVB Bank, and Wachovia Bank.

As a result of the Subcommittee's hearings and investigation, the three accounting firms committed to cultural, structural, and institutional reforms and changes to end the development, promotion, and implementation of mass-marketed abusive tax shelters. KPMG

informed the Subcommittee that the firm had dismantled its development, marketing, and sales infrastructure used for offering mass-marketed tax shelters. In addition, KPMG indicated that it had dismantled various tax practice groups, made leadership changes, and strengthened oversight and compliance. KPMG indicated that these changes reflected a firm-wide commitment to attain the highest degree of trust from the firm's clients, regulators, and the public at large. Similarly, Ernst and Young told the Subcommittee that the firm had instituted new oversight and leadership changes, IRS compliance and monitoring systems, and firm-wide policies to ensure the highest standards of professionalism. PricewaterhouseCoopers told the Subcommittee that the firm had instituted new leadership positions, and a centralized product development process to monitor all tax services to ensure that mass-marketed abusive tax shelters would not be marketed by the firm in the future.

Following the hearings, the Senate passed resolution S. 274 authorizing production of documents from this investigation to law enforcement authorities. In August 2005, in a matter handled by the Tax Division of the U.S. Justice Department, KPMG admitted to criminal wrongdoing and agreed to pay \$456 million in fines, restitution, and penalties. The criminal information and indictment together stated that, from 1996 to 2003, KPMG and others conspired to defraud the IRS by designing, marketing, and implementing illegal tax shelters in relation to the FLIP, OPIS, and BLIPS shelters and another shelter known as SOS. In addition, the Justice Department indicted multiple individuals, including former KPMG tax partners and a former Brown and Wood law partner, for their roles in these and other tax shelter activities.

To further address the problem of abusive tax shelters involved with robbing the U.S. Treasury of millions of dollars at the expense of honest American taxpayers, Senator Levin and Senator Coleman introduced the Tax Shelter and Tax Haven Reform Act, S. 2210, to strengthen penalties on tax shelter promoters, prevent abusive tax shelters, deter uncooperative tax havens, and codify the economic substance and business purpose doctrines. This bill was referred to the Senate Finance Committee which subsequently reported a more comprehensive tax bill, S. 1637. This bill included some of the tax shelter provisions in S. 2210. In May 2004, the Senate considered and adopted S. 1637. During the Senate debate, a Levin-Coleman amendment was accepted to further strengthen Federal penalties on promoters, aiders and abettors of abusive tax shelters. In October 2004, after a House-Senate conference, Congress enacted into law H.R. 4520, the American Jobs Creation Act. This tax legislation included a number of tax shelter reforms supported by the Subcommittee's investigation and the Senate Finance Committee, including stronger penalties on promoters of abusive tax shelters.

I. DOD Contractors Who Cheat on Their Taxes and What Should be Done About It (February 12, 2004)

In 2003, the Subcommittee initiated an investigation into the problem of Federal contractors who are paid with taxpayer dollars, while failing to meet their own tax obligations. This problem is a longstanding one. For example, in 1992, the Government Accountability Office (GAO) reported that more than 5,700 Federal contractors had failed to pay \$773 million in taxes, penalties, and interest.

Another 1,100 contractors were under investigation at that time for failing to file tax returns. Based on more recent reports that certain Federal contractors continue to evade payment of their taxes, the Subcommittee initiated an investigation to determine the scope of the problem and the state of Federal programs designed to cure it, including the Federal tax levy program, which is supposed to levy a portion of all Federal contractor payments to ensure the payment of any outstanding tax debt.

In a February 12, 2004 hearing before the Subcommittee, GAO testified that 27,100 Department of Defense (DOD) contractors (25,600 businesses and 1,500 individuals) owed about \$3 billion in unpaid taxes. These contractors provided DOD with a wide variety of goods and services, including building maintenance, construction, consulting, catering, dentistry, funeral services, and parts or services related to weapons. GAO also identified 47 cases involving potential tax fraud which were subsequently referred to the IRS for enforcement action.

GAO also identified numerous problems with the Federal tax levy program, including flaws in how the program was being implemented by DOD with respect to its contractors. For example, GAO noted that more than a dozen DOD payment systems did not participate in the automated tax levy program, which meant that about \$85 billion in DOD contract payments were not being screened for delinquent taxpayers. In addition, many of DOD's payment documents lacked valid taxpayer identification numbers, which meant that their contract payments could not be matched to IRS debt records to identify payments that should be levied. DOD contractors are required to register in the Central Contractor Registration—a DOD database—before they can be awarded a contract. As part of the registration process, contractors are required to provide a taxpayer identification number. However, the numbers provided are not validated with the IRS. GAO testified that it found cases where contractors did not provide their taxpayer identification numbers and in some instances provided fraudulent numbers. GAO concluded that, under the tax levy program, DOD had collected less than \$1 million in 2002, when it should have been collecting a minimum of \$100 million.

The Subcommittee also took testimony from Mark Everson, Commissioner, IRS, Department of the Treasury; Richard L. Gregg, Commissioner, Financial Management Service, Department of the Treasury; and Lawrence J. Lanzillotta, Principal Deputy Under Secretary (Comptroller), DOD.

J. Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling (March 24, 2004)

In 2003, the Subcommittee initiated an investigation into abusive practices by the credit counseling industry. In 2004, the Subcommittee held hearings to examine the industry and issued a bipartisan Subcommittee staff report on this issue.

Since 1996, more than one million consumers have filed for bankruptcy each year, with a record 1.66 million filings in 2003. The national credit card debt has skyrocketed over the past several years, and consumer debt has more than doubled in the past 10 years. To manage that debt, consumers regularly turned to the non-profit credit counseling industry for advice, financial education, and debt

consolidation. Consumers who could not afford to make all of their credit card payments often enrolled in a debt management program, which allowed them to consolidate their debts from several credit cards, reduce their monthly payments, and lower their interest rates.

The non-profit credit counseling industry often provided a last chance for heavily indebted consumers to repair their finances. Over the past several years, however, the credit counseling industry has undergone significant changes. The behavior of many new entrants into the industry resulted in increased consumer complaints, which led the Subcommittee, under the Chairmanship of Senator Coleman, to open an investigation into practices within the industry. The Subcommittee's initial inquiry lasted from approximately October 1993 to March 1994.

The Subcommittee investigated the practices of credit counseling agencies, the for-profit service providers who performed "back room" services for those agencies, and the creditor banks. The enforcement policies and practices of the Internal Revenue Service (IRS) and the Federal Trade Commission (FTC) were also examined. The Subcommittee investigation revealed that the consumer complaints were often due to the practices of new entrants into the credit counseling industry that pressured consumers into debt management plans, charged excessive fees, provided little or no financial counseling or education, promised results that never came about, ruined credit ratings, provided poor service, and in many cases left consumers in worse debt than before they initiated their debt management plan.

On March 24, 2004, the Subcommittee held a hearing to explore its findings. Two consumers who had been victimized by credit counseling agencies appeared as witnesses and told their stories to the Subcommittee, and two former credit counseling employees testified about the operations of credit counseling agencies from the inside. The Subcommittee also heard from three major credit counseling "conglomerates"—the DebtWorks-AmeriDebt conglomerate, the Cambridge-Brighton conglomerate, and the Ascend One-Amerix conglomerate. IRS Commissioner Mark Everson and FTC Commissioner Thomas Leary testified regarding their respective efforts to regulate the industry and enforce consumer protection laws. On the same date as the hearing, the Subcommittee released a bipartisan staff report.

In response to the hearings and report, all three credit counseling conglomerates examined by the Subcommittee pledged to improve their operations. In addition, the IRS initiated a major review of credit counseling agencies claiming to be non-profit organizations. The FTC also continued its enforcement actions against several of the conglomerates examined by the Subcommittee.

K. Buyer Beware: The Danger of Purchasing Pharmaceuticals Over the Internet (June 17 and 22, 2004)

In 2003, the Subcommittee initiated an investigation into health and security issues related to purchasing pharmaceutical products on the Internet and, in 2004, held two hearings on this issue.

The Subcommittee held the first of the two hearings on June 17, 2004. At that time, Americans were increasingly turning to the Internet for access to affordable drugs, spending in excess of \$2.3

billion in 2003 alone. Consumers had been turning to Internet pharmacies due to the exorbitant prices of pharmaceuticals available at “brick-and-mortar” pharmacies, lured by the promise of cheaper prices and streamlined service.

Unfortunately, rogue Internet pharmacies have proliferated, making millions of dollars by selling unproven, counterfeit, defective or otherwise inappropriate medications to unsuspecting consumers. Even more dangerous, these sites profit by selling addictive and potentially deadly controlled substances to consumers without a prescription or any physician oversight. The Subcommittee conducted a preliminary investigation at the JFK International Airport International Mail Branch (IMB) and found that 40,000 parcels containing drugs are imported through that airport on a daily basis, 11,200 of them being controlled substances like Vicodin, OxyCodone, and morphine. These parcels entered the United States from many countries, not just Canada. They contained counterfeit drugs and drugs with improvised packaging or instructions in languages other than English. The Subcommittee also discovered that similar problems existed at Chicago O’Hare and Miami IMB’s.

The first panel consisted of two GAO officials who conducted an investigation into issues surrounding the availability and safety of prescription drugs sold over the Internet, as well as the business practices of certain Internet pharmacies. Marcia Crosse, Director of Health Care, Public Health and Military Health Care Issues at the U.S. General Accounting Office, testified that, at that time, online pharmacies outside the U.S. and Canada regularly dispensed pharmaceuticals without prescriptions, that many of the drugs were either damaged, improperly packaged, or counterfeit, and that a significant number of the internet pharmacies appeared to be running scams. Most of the drugs obtained through the investigation were unapproved by the FDA. These problems, in certain cases, were severe. She testified that a package of Accutane, an acne treatment that causes birth defects if handled by pregnant women, came with instructions written only in Spanish. Problems like this raise the potential that a person receiving medications would not have had a physician consultation and could not read the instructions, placing them at a high risk for injury.

Robert J. Kramer, Managing Director of the Office of Special Investigations at the U.S. General Accounting Office, testified that the GAO investigation revealed that most of the U.S. online pharmacies in the business of selling hydrocodone knowingly service and richly profit from individuals who purchase narcotics for illicit purposes. Mr. Kramer revealed that the hydrocodone purchased online sold for 3 to 16 times the prices charged by local retail pharmacies. Further, none of the websites required a prescription and the narcotics could be easily obtained by filling out an online questionnaire. He testified that tech-savvy children, using their parent’s credit cards, could easily obtain dangerous and addictive narcotics.

The second panel consisted of individuals researching the growing problem of uncontrolled pharmaceutical importation and the unique threats to American consumers associated with the rise in Internet pharmacies. Hon. Rudolph W. Giuliani, Chairman and CEO of Giuliani Partners LLC in New York City, testified to the market forces that have created this surge in the use of Internet

pharmacies. He explained that the capacity to screen and inspect packages for imported pharmaceuticals was, at that time, only 1% of the total packages moving through IMB's. Mr. Giuliani stressed the need for an effective solution to this difficult problem. Marvin Shepherd, Ph.D., Director for Pharmacoeconomic Studies at the College of Pharmacy at The University of Texas at Austin, testified that, until an acceptable solution can be implemented that would place Internet pharmacies under the scrutiny of the FDA or equivalent body, he is opposed to any legislative effort to allow drug importation from Canada. He explained that many of the drugs being sold on the Internet from Canada have their country of origin elsewhere, due to an insufficient inventory of pharmaceuticals within Canada. He testified that most of the drugs imported by Canada from other countries were in violation of FDA regulations, posing a significant health risk to the American consumer.

The final panel consisted of two women who had lost loved ones due to overdoses of prescription drugs obtained in large quantities without prescriptions, doctors visits or follow-up of any kind. Elizabeth Carr of Sacramento, CA, related the story of her husband's death due to an overdose of Darvon, a controlled substance. He purchased the drug through Internet pharmacies located all over the world. After his death, Ms. Carr worked with the California Medical Board to try to hold someone accountable for the delivery of controlled substances to her husband. Because her claim did not implicate doctors licensed in California, there was nothing they could do. She testified that they said something had to be done on the Federal level. Francine Hahn Haight of Orange County, CA, testified to the loss of her son to an overdose of narcotics that he had easily purchased on the Internet. The drugs were delivered with no instructions, safety precautions, or physician consultation. In this case, the operators of the pharmacy where he had obtained the drugs were arrested by the DEA and were found guilty of illegally selling drugs on the Internet.

On July 22, 2004, the Subcommittee held the second of two hearings on the health and security issues related to purchasing pharmaceutical products on the Internet. At the time of the hearing, Federal agencies lacked a uniform approach to screening and processing imported pharmaceuticals, no reliable estimate of the quantity or quality of the drugs being imported, and most disturbingly, more prescription drugs were being released without ever being inspected. Senator Coleman noted that the Federal Government had been aware of the problem since 1999, and that proposals at the hearing were strikingly similar to the proposals made 5 years earlier. On the other hand, the private sector had been taking some swift and proactive steps to curb access to rogue Internet pharmacies in an attempt to control the illegal importation of controlled substances and counterfeit or unsafe pharmaceuticals. Even with these measures in place, however, the resolution to this problem was far from apparent and the hearing focused on the actions needed to reduce, and finally eliminate, this difficult problem.

Richard M. Stana, Director of Homeland Security and Justice Issues at the U.S. Government Accountability Office, testified that the volume of drugs coming into the United States due to Internet purchases had overrun the inspection system in place at International Mail Branches (IMBs) across the country. He pointed out

that the severity and scope of the problem could not even be determined, though he estimated that approximately two million packages containing illegal drugs entered the country per year. He expressed concern over the already large and dramatically increasing flow of controlled substances that go directly to the purchaser, without ever going through inspection. Mr. Stana explained that, even when large shipments were identified, the paperwork and processing required to seize those shipments created a backlog of hundreds of man-hours. He testified that a reduction in processing requirements for the seizure of controlled substances coming through IMBs, and a more concerted risk management approach to inspections might begin to help reduce the inflow of dangerous drugs into the American market.

Karen P. Tandy, Administrator of the Drug Enforcement Administration, testified that the scope of the problem is too broad for the DEA or any single agency to tackle alone. She explained that the Federal agencies had enlisted the support of the private sector to prevent access to rogue Internet pharmacies, prevent illegal purchases, and stem the flow of illegal drugs entering the country through the mail. Lee R. Heath, Chief Inspector of the U.S. Postal Inspection Service, outlined the law governing the Inspection Service and the limits of their jurisdiction. He explained that a possible application of existing statutory authority would allow the Postal Service, in cooperation with FDA and Customs, to handle illegally mailed drugs in a similar manner to the way they handle lottery mailings.

Jayson P. Ahern, Assistant Commissioner at the Office of Field Operations for the Bureau of Customs and Border Protection (CBP), discussed the interagency efforts to determine the type and scope of pharmaceuticals imported through international mail into the United States. He testified that the volume discovered was enormous, and that a significant number of the drugs contained no active ingredient. He further explained that, during an inspection blitz conducted in June 2004, 46 percent of the packages identified were suspected of containing controlled substances. John M. Taylor, III, Associate Commissioner for Regulatory Affairs at the U.S. Food and Drug Administration in Rockville, MD, testified that the FDA did not support efforts to legalize the importation of drugs from Canada and that they could not support the "buyer beware" approach. He explained that, during recent inspection blitzes, 88 percent of the drug products that were examined at IMBs were unapproved by the FDA or otherwise illegal. He warned that until quality control assurances could be made as to imported drugs, importation should be strictly regulated.

William Hubbard, Associate Commissioner for Policy and Planning at the U.S. Food and Drug Administration in Rockville, MD, testified that at that time it was nearly impossible to determine the actual location of Internet pharmacies purporting to be located in Canada. He explained that an Internet site could be located in Canada, the business in Vietnam, and the pharmaceuticals shipped from Chile and South Africa. He referenced the Wisconsin State endorsed Internet pharmacy program and a study that concluded that one-third of the drugs purchased through that program did not meet the State's agreement. For example, 237 impermissible drugs have been dispensed, many of them non-FDA approved drugs, from

an Internet pharmacy that was sanctioned by the State of Wisconsin.

John Scheibel, Vice President of Public Policy for Yahoo! Inc., testified that Internet pharmacies must meet strict standards, including being licensed with Square Trade, an industry approved third-party trust infrastructure company, in order to advertise with Yahoo! He discussed their current cooperation with law enforcement, and testified that Yahoo! had worked to create a safe environment for the advertisement of online prescription drugs. Sheryl Sandberg, Vice President of Global Online Sales and Operations for Google, Inc. in Mountain View, CA, testified that, in order for online pharmacies to advertise with Google, they had to be certified by Square Trade. Ms. Sandberg was careful to point out that such licensing only applied to advertisements, and not to other results displayed during a search. She explained that, because Google and Yahoo! are impartial information gatherers, they could not remove sites from their database that are not illegal per se without violating company policy.

Robert A. Bryden, Vice President for Corporate Security at FedEx Corporation in Memphis, TN, testified to the growing level of cooperation between FedEx and the law enforcement community. He also testified that, while many Internet pharmacies use the FedEx logo, none are authorized to do so. Daniel J. Silva, Vice President and Director of Security at United Parcel Service in Atlanta, Georgia, testified that they have created a computer program called Target Search, which allows Customs to search manifest records for suspicious activity. Mr. Silva explained that, like FedEx, UPS tracks online pharmacies that offer UPS services and display the UPS trademark. He testified that sites found using the UPS logo are sent cease and desist letters, and appropriate legal actions are taken wherever possible.

Joshua L. Peirez, Senior Vice President and Assistant General Counsel for MasterCard International Incorporated in Purchase, New York, testified that MasterCard's Merchant Security Team had shut off the acceptance of MasterCard at over 370 illicit websites. He testified that requiring Internet pharmacies to be licensed or approved to sell over the Internet would be helpful in providing a clear understanding of whether particular pharmacies are engaged in legal or illegal activities. Steve Ruwe, Executive Vice President of Operations and Risk Management at VISA U.S.A. Inc. in Foster City, CA, testified that Visa had engaged in a similar monitoring effort, which resulted in discussions with some of its member banks regarding their merchants who appear to be involved in selling controlled substances. He testified that any merchant found to be selling illegal substances had their licenses terminated or restricted. Mr. Ruwe recommended that a list of legal Internet pharmacies be published so that Visa could more easily comply with the law.

L. Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act (July 15, 2004)

From 1999 until 2001, at the request of Senator Levin, the Subcommittee held a series of hearings on the vulnerability of U.S. financial institutions to money laundering. After the September 11 terrorist attack, Congress enacted legislation in October 2001 to

strengthen U.S. anti-money laundering laws. These new anti-money laundering provisions, which were based in large part upon the Subcommittee's work, were included primarily in Title III of the Patriot Act. Among other provisions, these new Patriot Act provisions obligated U.S. financial institutions to exercise due diligence when opening and administering accounts for foreign political figures, and authorized U.S. money laundering prosecutions of any U.S. financial institution that opened accounts with funds suspected to be the product of corrupt financial activities by foreign officials.

In 2004, at Senator Levin's request, the Subcommittee held a hearing on July 15, 2004, and oversaw the issuance of a Minority staff report examining implementation of these and other anti-money laundering provisions of the Patriot Act, using Riggs Bank in Washington, D.C. as a case history. The investigation featured two sets of accounts at Riggs Bank, one involving Augusto Pinochet, former President of Chile, and the other involving Equatorial Guinea, an oil-rich country in Africa.

The Subcommittee investigation determined that, from 1994 until 2002, Riggs Bank opened at least nine accounts for Mr. Pinochet with aggregate deposits of up to \$8 million, without asking about the source of the funds. In addition, among other actions, while Mr. Pinochet was under house arrest in the United Kingdom and his assets were subject to a worldwide asset freeze, Riggs established two offshore corporations for him, secretly transferred over \$1 million from a Pinochet account in London to a U.S. account held in the name of one of the offshore corporations, and later supplied Mr. Pinochet with nearly \$2 million in cashiers checks so that he did not have to disclose the existence of his U.S. Riggs accounts. Riggs also concealed its Pinochet-related accounts from Federal bank examiners for 2 years, finally closing them in 2002, only after an anti-money laundering examination by its primary regulator, the Office of the Comptroller of the Currency (OCC), identified the accounts and questioned the source of the funds.

The Subcommittee's investigation also determined that, from 1995 until 2004, Riggs Bank administered more than 60 accounts for the Government of Equatorial Guinea (EG), EG officials, or their family members. By 2003, the EG accounts represented the largest banking relationship at Riggs Bank, with aggregate deposits ranging from \$400 to \$700 million. Among other actions, Riggs established offshore corporations for the EG president and his son, accepted cash deposits from the president and his wife of up to \$3 million at a time, and allowed millions of dollars in oil proceeds to be wire transferred from EG government accounts to unfamiliar offshore corporations, all without asking questions about these or other suspicious transactions. The investigation also discovered bank records showing substantial payments by U.S. oil companies to EG officials, their family members, and entities controlled by them.

The investigation exposed a troubling failure by Federal banking regulators to require Riggs Bank to comply with statutory and regulatory anti-money laundering requirements. From 1997 to 2003, the OCC examiners repeatedly identified major anti-money laundering deficiencies at Riggs Bank, yet allowed them to continue

year after year without forceful action to correct them. Testimony by the OCC acknowledged that there was a failure of supervision and that deficient anti-money laundering controls were allowed to fester too long without formal enforcement actions.

During the hearing, the Subcommittee heard testimony from a variety of witnesses. The Riggs private banker who handled the EG accounts, Simon Kareri, a former Senior Vice President and Senior International Banking Manager, asserted the Fifth Amendment rather than testify. Riggs officials who did testify were Lawrence Hebert, President and CEO; Raymond Lund, Former Executive Vice President of the International Banking Group; and R. Ashley Lee, Riggs Executive Vice President and Chief Risk Officer, and formerly the OCC Examiner-in-Charge of Riggs Bank. The OCC officials who testified were Jennifer Kelly, Deputy Comptroller, Mid-Size and Credit Card Bank Supervision; John Noonan, former Assistant Deputy Comptroller; Daniel Stipano, Deputy Chief Counsel; and Lester Miller, the current Examiner-in-Charge of Riggs Bank. The Subcommittee also heard from three persons associated with the oil companies that made payments to EG officials: Andrew Swiger, Executive Vice President, ExxonMobil Production Company; Albert Marchetti, Vice President, International and Federal Relations, Amerada Hess Corporation; and Steven Guidry, Central Africa Business Unit Leader, Marathon Oil Company.

In connection with the hearing, the Subcommittee's Minority staff issued a 114-page report which detailed Riggs actions related to the Pinochet and Equatorial Guinea accounts and the poor oversight exercised by the OCC and Federal Reserve of Riggs' anti-money laundering controls. In addition, on March 16, 2005, the Subcommittee issued a supplemental bipartisan staff report providing further information on U.S. accounts used by Augusto Pinochet. This report established that Riggs Bank had opened 28 accounts for Mr. Pinochet (instead of the nine identified in the original staff report) in a banking relationship that spanned 25 years. The report also disclosed that Mr. Pinochet had a total of 125 bank accounts at more than a half-dozen U.S. banks, including Riggs, Citibank, and Banco de Chile-United States, many of which had been opened under deceptive names or in the names of offshore entities or Pinochet associates. This report showed that banks other than Riggs had also failed to implement U.S. anti-money laundering controls.

In January 2005, Riggs Bank entered a guilty plea and paid a \$16 million fine to the U.S. Treasury related to its failure to report suspicious activity in connection with the Pinochet, EG, and other accounts. In February 2005, to settle civil and criminal charges filed by Spanish authorities for violating a court order directing financial institutions to freeze Pinochet assets, Riggs Bank paid about \$1 million in court costs and another \$8 million to a foundation to assist victims of the Pinochet regime.

Following the hearing, Senators Levin and Coleman introduced the Bank Examiner Postemployment Protection Act, S. 2814, which imposed a one-year cooling off period before a senior Federal bank examiner may be employed by a financial institution that he or she had overseen. This legislation was a result of the Subcommittee's finding that the Federal bank Examiner-in-Charge of Riggs Bank, Ashley Lee, appeared to have functioned as more of an advocate for

the bank than an arm's-length regulator. In 2002, for example, Mr. Lee ordered that examination workpapers acknowledging the existence of the Pinochet accounts at the bank not be retained in the OCC's electronic database. One month later, he was hired by Riggs Bank, creating an appearance of a conflict of interest. A Levin-Coleman amendment imposing the one-year cooling off provision for Federal bank examiners was included in S. 2845, the National Intelligence Reform Act of 2004, which was enacted into law on December 17, 2004, as the Intelligence Reform and Terrorism Prevention Act (P.L. 108-458).

M. How Saddam Hussein Abused the United Nations Oil-for-Food Program (November 15, 2004)

In April 2004, Chairman Coleman directed the Permanent Subcommittee on Investigations to initiate an investigation into evidence of abuse and misconduct associated with the U.N. Oil-for-Food Program (the "Program"). Following 7 months of investigation, the issuance of 21 document requests—including numerous subpoenas and Chairman's letters—numerous interviews with key participants, and the receipt of more than one million pages of evidence, the Subcommittee held its first hearing to examine corruption associated with the Program on November 15, 2004. The Subcommittee's hearing assessed the stunning magnitude of the corruption arising from the Program and examined how such widespread abuse was perpetrated.

The Subcommittee introduced at the hearing an estimate conducted by the Majority staff of the total illicit revenue raised by the Hussein regime in contravention of U.N. sanctions from 1991 through 2002. The Majority staff estimated that the Hussein regime gathered more than \$21.3 billion in contravention of U.N. sanctions during that timeframe. This figure built on previous estimates by the U.S. General Accounting Office (\$10.1 billion) and the figure contained in the Duelfer Report (\$10.9 billion), which will be described below. The \$21.3 billion estimate is based upon evidence discovered during the Subcommittee's investigation and was formulated with the assistance of experts from the Joint Economic Committee, Congressional Budget Office and GAO. The estimate of \$21.3 billion includes:

- oil smuggling facilitated through trade protocols with Iraq as well as unauthorized smuggling including "topping off" of oil tankers (\$13.6 billion);
- surcharges on oil purchases (\$241 million);
- kickbacks on humanitarian goods (\$4.4 billion);
- substandard goods purchased under the OFF Program (\$2.1 billion);
- abuses in the Northern Kurdish Region (\$405 million); and
- investment of illicit revenues (\$403 million).

The first witness at the Subcommittee's hearing was Charles Duelfer, Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Program. Mr. Duelfer testified about the report he prepared that detailed Iraq's abuse of the Oil-for-Food Program. The Duelfer Report concluded that Saddam Hussein's primary goal was to have U.N. sanctions lifted. In addition, he found that the introduction of the OFF

Program was a key turning point for the regime. The perversion of the Program, according to the Duelfer Report, provided additional illicit billions of dollars in revenue streams of kickbacks and surcharges. More importantly, Duelfer found that the program rescued Iraq's economy from U.N. sanctions by increasing economic activity and reducing international support for U.N. sanctions. Duelfer reported that OFF abuses, particularly vouchers to well-placed individuals and entities favoring Iraq, and kickbacks and surcharges, which went unhindered by the U.N. Security Council despite their knowledge of them, emboldened Saddam Hussein to finance and procure missile delivery systems, dual-use items, and military munitions.

On the second panel, investigative counsels from the Subcommittee presented new evidence to demonstrate three of the principal ways that the Hussein regime abused the Oil-for-Food Program. First, Subcommittee Counsel Mark L. Greenblatt testified about how Saddam converted oil into influence under the Program. In his testimony, Mr. Greenblatt examined how Saddam gave so-called "oil vouchers" to foreign officials, journalists, and possibly even terrorist entities, in order to peddle influence and reward friends. In doing so, the Subcommittee revealed previously undisclosed evidence that illustrated what oil vouchers were and how the voucher process worked. For instance, a number of documents were introduced to demonstrate how high-ranking officials in Saddam's regime, such as Tariq Aziz, were personally involved in handing out these favors.

Mr. Greenblatt presented a step-by-step review of how voucher recipients turned those favors into cash. For instance, Mr. Greenblatt introduced evidence of how Vladimir Zhirinovskiy, a prominent Russian politician, invited an American oil company to "negotiate" the sale of an oil voucher. The Subcommittee showed how vouchers were then translated into formal oil contracts that were approved by the U.N. As an example, Mr. Greenblatt traced a voucher given to a Syrian journalist named Hamida Na'Na and showed how that voucher ended up as a formal contract for the sale of oil under the Oil-for-Food Program. In doing so, the Subcommittee explained how Saddam turned the U.N. sanctions on their head and actually used the Oil-for-Food Program to his own advantage.

The Subcommittee also examined a second method that Saddam used to abuse the OFF Program through the imposition of oil surcharges. Mr. Greenblatt testified that, while the vouchers scheme was a ploy to peddle influence, the surcharges were a simple way to generate under-the-table revenue for Saddam's cash-strapped regime. Mr. Greenblatt presented evidence of how Saddam managed to generate roughly \$230 million in revenue through the oil surcharges. Mr. Greenblatt's testimony introduced new evidence of who made under-the-table payments to the regime and explored how they made those payments. For instance, Mr. Greenblatt presented evidence about one transaction that involved an American oil company in which more than \$1 million in illegal payments were made to the Hussein regime. Finally, Mr. Greenblatt introduced an excerpt of a document created by the Government of Iraq that detailed each and every under-the-table surcharge payment made to the Hussein regime.

In addition to evidence of the Hussein regime's influence-peddling through oil vouchers and illicit revenue through surcharges, the Subcommittee heard testimony about the regime's scheme to siphon off billions of dollars for itself by demanding kickbacks on contracts for humanitarian goods. Subcommittee Counsel Steven A. Groves testified that the regime cut illegal side-deals that were in their own best interests and to the detriment of the humanitarian needs of the Iraqi people.

Mr. Groves described, for example, the kickbacks paid by a Scottish company called The Weir Group, which conducted more than \$80 million of business under the Oil-for-Food Program. The story of The Weir Group is particularly disturbing since it demonstrates that legitimate, reputable corporations were complicit in enriching the regime of Saddam Hussein. The Subcommittee's investigation revealed that in June 2000 the Iraqi regime demanded kickbacks from The Weir Group. Rather than reject the demand, The Weir Group agreed to enter into an arrangement to pay a portion of every subsequent contract back to Saddam. Mr. Groves detailed this arrangement with a step-by-step description of how Weir inflated its contracts by marking-up the price of its products and by overstating the quantity of parts shipped.

According to Mr. Groves' testimony, The Weir Group, at the direction of the Iraqi regime and over the course of 4 years and 15 contracts, paid more than \$8 million into a secret Swiss bank account in the name of a non-existent corporation called "Corsin Financial Limited." Mr. Groves testified that Weir and Iraq were able to transact business in this manner with impunity, under the nose of the United Nations, and without regard of the sanctions imposed by the international community. Mr. Groves stated that the Office of the Iraq Program, the U.N. entity that oversaw the Oil-for-Food Program, approved Weir's contracts even though the prices of the contracts were sometimes inflated by 30 to 40 percent.

The third panel witness was Assistant Secretary of Treasury Juan Zarate, head of the interagency Iraqi Asset Tracking Task Force. Mr. Zarate provided valuable information on the efforts of the U.S. Government and its coalition partners to identify, locate, and repatriate the assets of the Iraqi people. At the time of the hearing, the Treasury Department and other U.S. agencies had identified and frozen almost \$6 billion in Iraqi assets worldwide. The majority of the \$6 billion in frozen assets was from the bank accounts of State Oil Marketing Organization (SOMO) at the Central Bank of Iraq, the Rafidain Bank, and the Rasheed Bank. Although the Department of Treasury's primary mission is the recovery of Iraqi assets, one tangent to this recovery effort has been the uncovering of information pertaining to the illegal kickbacks, surcharges and other fraudulent activities committed by the former Iraqi regime under the Oil-for-Food Program. Mr. Zarate provided examples of Treasury's efforts to undermine terrorist actions through the identification and freezing of assets as well as the designation of terrorist individuals and organizations.

At the hearing, Senator Levin presented the conclusions of the Duelfer Report that, despite Saddam Hussein's efforts to circumvent and undermine the OFF Program and his success in obtaining significant illicit revenues, U.N. sanctions were effective in constraining his efforts to re-arm or re-build Iraq's military forces.

The Duelfer Report stated: “Sanctions imposed constrains on potential WMD programs through limitations on resources and restraints on imports. The sanctions forced Iraq to slash funding that might have been used to refurbish the military establishment and complicated the import of military goods.” Senator Levin also presented the similar conclusions of the U.S. General Accounting Office that “there is no indication that Iraq has purchased large-scale weapons systems, such as aircraft, ships or armor. Iraq’s conventional rearmament efforts are limited to purchases of small arms and spare parts to keep weapons and vehicles not destroyed during the Gulf War operations.—U.N. controls have limited the amount that Iraq can spend on arms.” Senator Levin concluded that, despite Saddam’s actions to corrupt the OFF Program, the evidence established that U.N. sanctions had been effective in preventing Iraq from re-arming.

III. LEGISLATIVE ACTIVITIES DURING THE 108TH CONGRESS

The Permanent Subcommittee on Investigations does not have legislative authority, but because its investigations play an important role in bringing issues to the attention of Congress and the public, the Subcommittee’s work frequently contributes to the development of significant legislative initiatives. The Subcommittee’s activities during the 108th Congress were no exception, with Subcommittee hearings and Members playing prominent roles in the development of a number of legislative initiatives.

A. Tax Haven and Tax Shelter Reform Act (S. 2210—by Senators Levin and Coleman)

Following a year-long investigation and Subcommittee hearing in 2003, on April 12, 2004, Senators Levin and Coleman introduced the Tax Haven and Tax Shelter Reform Act, S. 2210, to correct many of the problems identified by the Subcommittee. Among other provisions, S. 2210 contained language to strengthen penalties for promoting, aiding, or abetting abusive tax shelters by increasing the maximum penalty from \$10,000 per violation under current law to 150 percent of the gross income derived by the tax shelter promoter, aider, or abettor of abusive tax shelter activity. The bill also sought to require transactions to have economic substance apart from tax avoidance, prohibit accountants from accepting fees contingent on achieving a specified tax benefit, and impose penalties on offshore tax haven jurisdictions which the U.S. Treasury Secretary determined were uncooperative with U.S. tax enforcement.

In May 2004, the Senate adopted the Jumpstart Our Business Strength (JOBS) Act, S. 1637, which included a number of tax shelter reform provisions, including a proposed 50 percent penalty on a promoter’s gross income derived from abusive tax shelters. During the Senate debate on the bill, a Levin-Coleman amendment was accepted which increased the penalty to 100 percent of the gross income derived by a promoter, aider, or abettor of an abusive tax shelter. Unfortunately, the final bill approved by Congress, H.R. 4520, adopted only the lower 50 percent penalty and confined it to promoters, leaving Federal tax shelter penalties in need of additional reform.

B. Bank Examiner Postemployment Protection Act (S. 2814—by Senators Levin and Coleman)

Following a year-long investigation, hearing, and staff report, Senators Levin and Coleman introduced the Bank Examiner Postemployment Protection Act, S. 2814. This legislation addressed a troubling situation uncovered during a Subcommittee investigation which, in part, examined how the Office of the Comptroller of the Currency (OCC) oversaw the anti-money laundering efforts at Riggs Bank. The investigation determined that the OCC Examiner-in-Charge at Riggs Bank appeared to have functioned more as an advocate than an arm's-length regulator during the years he was responsible for overseeing the bank. In 2001, for example, he had advised more senior OCC officials against taking formal enforcement action against Riggs, because the bank had promised to correct identified money laundering deficiencies, even though the bank had repeatedly failed to correct these deficiencies since they were first identified in 1997. In addition, in 2002, he ordered that examination workpapers identifying the existence of Pinochet accounts and deficiencies in Riggs anti-money laundering procedures be removed from the OCC's electronic database and kept only in paper boxes, contrary to internal requirements. Because of this action, the subsequent Examiner-in-Charge was unaware of the existence of the Pinochet-related examination.

Less than 2 months after ordering the removal of the Pinochet electronic materials, the Examiner-in-Charge retired from the OCC and was hired by Riggs Bank. During his employment at the bank, the former examiner attended a number of meetings with OCC personnel related to Riggs' poor anti-money laundering procedures, despite OCC rules barring former Federal employees from attending meetings with the agency on matters they worked on while at the OCC. To address these and related conflict of interest concerns, the bill proposed a one-year cooling off period for senior examiners from the OCC, Federal Reserve Banks, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration before such an examiner can take a job at a financial institution that he or she oversaw. To ensure flexibility, the bill allowed each banking agency head to issue waivers for former employees on a case-by-case basis. A Levin-Coleman amendment containing these provisions was included in S. 2845, the National Intelligence Reform Act of 2004, and enacted into law on December 17, 2004, as part of the Intelligence Reform and Terrorism Prevention Act (P.L. 108-458).

C. The Central Contractor Registry Act (S. 2838—by Senators Coleman, Levin, Collins, Lieberman, Reed, Akaka, and Dayton)

Following the Subcommittee's hearing into Department of Defense (DOD) contractors who are delinquent on their taxes, on May 5, 2004, Senators Coleman, Levin, and others introduced The Central Contractor Registry Act of 2004, S. 2838. The principal purpose of the bill was to codify a requirement that Federal contractors provide their Taxpayer Identification Numbers (TINs) in DOD's Central Contractor Registry database, and provide DOD with statutory authority to validate each TIN in the database with the IRS. Validated TINs would then increase the ability of the Federal tax levy program to identify contractors with unpaid taxes and capture a

portion of their contract payments to satisfy any outstanding tax debt. The bill was referred to the Committee on Finance. While the bill was not enacted into law, DOD and the IRS subsequently agreed to make the recommended reforms to the lax levy program.

D. Prevention of the Illegal Importation of Controlled Substances Act of 2004 ("The Todd Rode Act") (S. 2465—by Senator Coleman)

An investigation by the Permanent Subcommittee on Investigations has revealed that tens of thousands of dangerous and addictive controlled substances are streaming into the United States on a daily basis from overseas Internet pharmacies. For example, on March 15 and 17, 2004, at JFK airport, home to the largest International Mail Branch in the United States, at least 3,000 boxes from a single vendor in the Netherlands containing hydrocodone and Diazepam (Valium) were seized by Customs and Border Protection (CBP).

Senior CBP inspectors at JFK estimate that 40,000 parcels containing drugs are imported on a daily basis. During a 2004 FDA/CBP blitz, 28 percent of the drugs tested were controlled substances. Extrapolating these figures, 11,200 drug parcels containing controlled substances are imported through JFK daily, 78,400 weekly, 313,600 monthly and 3,763,200 annually. Top countries of origin include Brazil, India, Pakistan, Netherlands, Mexico, and Romania. Likewise, as of March 2003, senior CBP officials at the Miami International Airport indicated that as many as 30,000 packages containing drugs were being imported on a daily basis. A large percentage of these are controlled substances. At mail facilities across the United States, CBP regularly seizes shipments of oxycodone, hydroquinone, tranquilizers, steroids, codeine laced product, GHB (date rape drug), and morphine. CBP is simply overwhelmed.

In order to comply with paperwork requirements, CBP is forced to devote investigators solely to opening, counting, and analyzing drug packages, filling out duplicative forms, and logging into a computer all of the seized controlled substances. It takes CBP at least one hour to process a single shipment of a controlled substance. This minimizes the availability of inspectors to screen incoming drug packages. CBP acknowledges that, because of the sheer volume of products, bureaucratic regulations, and lack of manpower, the vast majority of controlled substances that are illegally imported are simply missed and allowed into the U.S. stream of commerce.

The Todd Rode Act addresses this burgeoning and potentially lethal problem by enabling CBP to immediately seize and destroy any package containing a controlled substance that is illegally imported into the United States without having to fill out duplicative forms and other unnecessary administrative paperwork. The Act allows CBP to focus on interdicting and destroying potentially addictive and deadly controlled substances.

E. Internet Pharmacy Consumer Protection Act ("The Ryan Haight Act") (S. 2464—by Senator Coleman)

The Ryan Haight Internet Pharmacy Consumer Protection Act addresses the growing problem of prescription drug sales over the

Internet without a valid prescription by (1) providing new disclosure standards for Internet pharmacies; (2) barring Internet sites from selling or dispensing prescription drugs to consumers who are provided a prescription solely on the basis of an online questionnaire; and (3) allowing State Attorneys General to go to Federal court to shut down rogue sites.

Purchasing drugs online without a valid prescription can be simple: A consumer just types the name of the drug into a search engine, quickly identifies a site selling the medication, fills in a brief questionnaire, and then clicks to purchase. The risks of self-medicating, however, can include potential adverse reactions from inappropriately prescribed medications, dangerous drug interactions, use of counterfeit or tainted products, and addiction to habit-forming substances. Several of these illegitimate sites fail to provide information about contraindications, potential adverse effects, and efficacy.

Regulating these Internet pharmacies is difficult for Federal and State authorities. State medical and pharmacy boards have expressed the concern that they do not have adequate enforcement tools to regulate practice over the Internet. It can be virtually impossible for States to identify, investigate, and prosecute these illegal pharmacies because the consumer, prescriber, and seller of a drug may be located in different States.

S. 2464 amends the Federal Food, Drug, and Cosmetic Act to address this problem in three steps. First, it requires Internet pharmacy websites to display information identifying the business, pharmacist, and physician associated with the website. Second, the bill bars the selling or dispensing of a prescription drug via the Internet when the website has referred the customer to a doctor who then writes a prescription without ever seeing the patient. Third, the bill provides States with new enforcement authority modeled on the Federal Telemarketing Sales Act that will allow a State attorney general to shut down a rogue site across the country, rather than only barring sales to consumers in his or her State.

F. Policies on Filling the Strategic Petroleum Reserve (Amendments to H.R. 2691 and S. Con. Res. 95—by Senators Levin and Collins)

In response to a year-long Subcommittee investigation and Minority staff report showing how the Administration's policy of continuously filling the Strategic Petroleum Reserve (SPR) without regard to price reduced available U.S. commercial oil supplies and increased pressure on U.S. oil prices, Senators Levin and Collins offered two amendments during the 108th Congress to address some of the identified problems. Both amendments were adopted by the full Senate, but not enacted into law during the Congress.

In 2003, a Levin-Collins amendment to the FY2004 Interior appropriations bill (H.R. 2691) was adopted by the Senate but dropped from the final conference report. This amendment would have directed the Department of Energy (DOE) to develop and use cost-effective procedures for filling the SPR, including procedures to acquire oil in a manner that would maximize the overall domestic supply of oil and minimize the cost to taxpayers, consistent with national security. In 2004, a Levin-Collins amendment to the

FY2005 Senate budget resolution (S. Con. Res. 95) would have cancelled oil deliveries into the SPR during FY2005, sold the undelivered oil on the open market, and used the funds for deficit reduction and homeland security. This amendment, which had the potential to produce estimated taxpayer revenues of over \$1.7 billion, while reducing gasoline prices by 10 to 25 cents per gallon, was accepted by the Senate but never enacted into law, because the Senate and House were unable to reach agreement on a final FY2005 budget resolution.

IV. REPORTS AND PRINTS

A. *U.S. Strategic Petroleum Reserve: Recent Policy has Increased Costs to Consumers but not Overall U.S. Energy Security (Report prepared by the Minority Staff of the Permanent Subcommittee on Investigation) (S. Prt. 108-18)*

On March 5, 2003, the Subcommittee oversaw the release of a 288-page report prepared by the Minority Staff entitled, "U.S. Strategic Petroleum Reserve: Recent Policy Has Increased Cost to Consumers But Not Overall U.S. Energy Security." This report found that the U.S. Department of Energy's recent program to fill the U.S. Strategic Petroleum Reserve (SPR) had increased crude oil prices and hurt U.S. consumers and taxpayers, without actually increasing overall U.S. oil supplies. It also identified multiple weaknesses in the functioning of U.S. energy markets, calling for greater transparency and regulatory oversight to prevent, detect, and stop price manipulation.

The report, which was released by Senator Levin, was the result of a year-long investigation that built upon a prior Subcommittee investigation into the pricing of U.S. retail gasoline, by examining how crude oil prices affect gasoline and other fuel prices. The report determined that, in early 2002, despite warnings from career officials about "explosive price swings," higher taxpayer costs, and lower overall oil supplies that would result, the Department of Energy (DOE) began filling the SPR without regard to the high price of oil. The report found that DOE's actions removed about 40 million barrels of crude oil from the marketplace in 2002, became a significant factor driving up U.S. crude oil prices to a 12-year high of nearly \$40 per barrel, and hurt U.S. consumers by also driving up the price of gasoline, home heating oil, jet fuel, and diesel fuel.

The report showed that, at the end of 2001, U.S. oil supplies totaled about 880 million barrels, with about 560 million barrels in the SPR and 320 million in commercial inventories in the private sector. At the end of 2002, the overall crude oil inventory was approximately the same, but with 600 million barrels under government control in the SPR, and only 270 million barrels in the private sector, an unusually low level at which U.S. refineries risk disruptions due to inadequate supplies of oil. With crude oil prices at a 12-year high in 2002, and U.S. commercial crude oil inventories at record lows, the report cautioned that DOE plans to add another 40 million barrels to the SPR in 2003, if carried out, would drive U.S. oil prices even higher and impose more costs on U.S. consumers and taxpayers, with no assurance of a net increase in overall U.S. oil supplies.

The report traced key changes in DOE policy regarding the filling of the SPR. It showed that, prior to 2002, DOE had routinely granted oil company requests to defer scheduled oil deliveries to the SPR when prices were high in return for deposits of extra oil at a later date, saving taxpayers over \$175 million and adding 7 million barrels to the SPR in 2000–2001. By denying deferral requests for most of 2002, however, DOE had missed opportunities for taxpayer savings and extra SPR oil. Also, by using high-priced royalty oil from off-shore leases for the SPR instead of selling it on the market, DOE had reduced revenues used to support taxpayer-funded programs. For example, at the 2002 SPR fill rate of 100,000 barrels per day, filling the SPR with \$30 per barrel oil rather than \$20 per barrel oil cost taxpayers an additional \$1 million per day.

The report also traced the history of regulatory oversight of commodity markets, and action taken by Congress, in 2000, to exempt energy commodities from normal market oversight through enactment of the so-called “Enron loophole.” The report described the resulting rise of unregulated over-the-counter (OTC) markets and showed that crude oil prices were being formed by trading, not only on regulated exchanges like the NYMEX, but also on the unregulated OTC markets which had become major trading centers for energy contracts and derivatives. The report found that the lack of OTC pricing information and oversight made it difficult, if not impossible, for government regulators and others to determine whether traders were manipulating crude oil prices.

The report made a number of recommendations to improve the functioning of U.S. crude oil markets, including increasing disclosure and oversight of OTC energy markets to prevent, detect, and deter price manipulation; deferring additional SPR deposits until U.S. oil supplies increased and energy prices fell; and restoring DOE procedures that permitted the deferral of SPR deliveries when crude oil prices were high or commercial crude oil supplies were tight.

B. Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling (Report prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations and reprinted in S. Hrg. 108–545)

On March 24, 2004, in conjunction with its hearing examining credit counseling practices, the Subcommittee issued a report prepared by the Majority and Minority staffs summarizing its investigation. The report indicated that traditional credit counseling agencies (CCA's) generally relied upon contributions from creditors or small fees from consumers to cover their operational costs. Certain new entrants into the industry, however, developed a completely different business model, using a for-profit model designed so that their non-profit credit counseling agencies generate massive revenues for a for-profit affiliate for advertising, marketing, executive salaries, and any number of other activities other than actual credit counseling.

The staff report established that many of the “new” non-profit and for-profit companies were organized and operated to generate profits from an otherwise non-profit industry. Evidence of the new entrants’ intention to create profits was indicated in several ways by the new entrants, including (1) the manner in which the new

entrant was organized, (2) the extent of control exercised by a for-profit entity over its non-profit CCA affiliate, and (3) the revenue received by the for-profit entity from the non-profit agency.

The staff report established that the primary effect of the for-profit model has been to corrupt the original purpose of the credit counseling industry—to provide advice, counseling, and education to indebted consumers free of charge or at minimal charge, and place consumers on debt management programs only if they are otherwise unable to pay their debts. Many of the new entrants practiced the reverse—the new entrants provided no bona fide education or counseling and placed every consumer onto a debt management program whether the consumer needed the program or not. The new entrants often charged unreasonable or exorbitant fees for their services.

Based upon its investigation of the credit counseling industry, the Subcommittee made a number of findings and recommendations to end abusive practices, as follows:

1. **Abusive Practices.** Some credit counseling agencies are engaged in abusive practices that hurt debtors, including by charging excessive fees, putting marketing before counseling, and providing debtors with inadequate educational, counseling, and debt management services.

2. **Profiteering.** Some non-profit credit counseling agencies are funneling millions of dollars each year from cash-strapped debtors to insiders and affiliated for-profit businesses, in apparent violation of tax laws prohibiting tax-exempt charities from benefiting private interests.

3. **Creditor Standards.** As part of ongoing efforts to halt abusive practices in the credit counseling industry, major creditors should review and strengthen their standards for credit counseling agencies with whom they do business, as well as their methods for monitoring and enforcing compliance. These standards should include requiring credit counseling agency to join an association such as NFCC or AICCCA and to comply with their membership requirements.

4. **Stronger Enforcement.** The IRS and FTC should accelerate their enforcement efforts to review suspect credit counseling agencies and take appropriate action against agencies and others who are violating restrictions on tax exempt entities or engaging in deceptive or unfair trade practices. Federal enforcement personnel should also consider coordinating their actions with State enforcement agencies to make efficient use of government resources.

5. **Improved Bankruptcy Bill.** The Senate should consider modifying credit counseling provisions in the pending bankruptcy legislation to strengthen protections against abusive practices, including determining whether a single authority, the U.S. bankruptcy trustee, should issue a central list of qualifying credit counseling agencies to provide counseling to bankruptcy petitioners and whether credit counseling fee limits would be appropriate.

6. **New Legislation.** The Senate should consider introducing Federal legislation, either modeled on the Debt Repair Organizations Act of 1996 or expanding that law's application to reach non-profit entities, to strengthen protections against abusive practices in the credit counseling industry.

C. U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals (November 18, 2003) (Report prepared by the Minority Staff and reprinted in S. Hrg. 108-473 as S. Prt. 108-34)

On November 18, 2003, in conjunction with two days of hearings, the Subcommittee oversaw the release of a Minority staff report entitled, “U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals,” describing the results of a year-long investigation led by Senator Levin into the role of accountants, lawyers, investment advisors, and bankers in the development, marketing, and implementation of abusive tax shelters.

The report presented four case studies of tax products developed by KPMG, one of the leading accounting firms in the United States. The report traced how KPMG’s Tax Services Practice underwent a fundamental change in the late 1990s, by embracing the development of tax products designed to reduce or eliminate taxes and pressing its tax professionals to sell them to KPMG clients. It then showed how the tax products were developed within the firm, mass marketed to prospective purchasers using such techniques as telemarketing calls and contacts with KPMG audit clients, and implemented with the assistance of law firms that provided favorable tax opinions, banks that provided needed financing, and investment advisors that provided key securities transactions.

Three of the KPMG tax products examined by the Subcommittee, known as FLIP, OPIS, and BLIPS, functioned as “loss generators” whose purpose was to generate paper losses that could be used to offset other income and shelter it from taxation. All three used a series of complex, orchestrated transactions involving shell companies, structured finance, and multi-million dollar loans not subject to any economic risk to accomplish their ends. The fourth tax product, known as SC2, was described by KPMG as a “charitable contribution strategy” and was directed at individuals seeking to shelter income from Chapter S corporations. SC2 was designed to generate a tax deductible charitable donation for the corporate owner, while also allowing for tax deferral and reduced taxation of the corporation’s income by allocating—but not actually distributing—that income to a tax-exempt charity asked to hold the corporation’s stock for a designated period of time. The IRS eventually listed all four types of transactions as abusive tax shelters.

The report made a number of findings and recommendations. It found, for example, that the sale of potentially abusive and illegal tax shelters had become a lucrative business in the United States. It found that KPMG had devoted substantial resources to developing a steady supply of generic tax products to sell to multiple clients using aggressive marketing tactics. The report also found that major banks and investment advisory firms had provided critical lending and brokerage services in return for substantial fees, while law firms had provided KPMG clients with allegedly “independent” opinion letters claiming that a tax product would withstand an IRS challenge, also in return for substantial fees. To address these problems, the report recommended that Congress strengthen the penalties on promoters, aiders, and abettors of abusive tax shelters and increase IRS enforcement dollars. It also recommended that Federal regulators and professional organizations undertake reviews of accounting firms, banks, securities firms, and law firms to

stop their participation in tax shelter activities. These and other measures were included in the Tax Shelter and Tax Haven Reform Act, S. 2210, introduced by Senators Levin and Coleman during the 108th Congress.

D. Money Laundering and Foreign Corruption: Effectiveness and Enforcement of the Patriot Act—Case Study Involving Riggs Bank (July 15, 2004) (Report prepared by the Minority Staff and reprinted in S. Hrg. 108–633)

On July 15, 2004, in conjunction with a hearing, the Subcommittee oversaw the release of a Minority staff report entitled, “Money Laundering and Foreign Corruption: Effectiveness and Enforcement of the Patriot Act—Case Study Involving Riggs Bank.” This report, which is the result of a year-long investigation initiated by Senator Levin, examined the enforcement and effectiveness of anti-money laundering provisions contained in Title III of the Patriot Act, using Riggs Bank as a case history. With the enactment of the Patriot Act in October 2001, U.S. financial institutions were obligated to exercise due diligence with opening and administering accounts for foreign political figures and to report to law enforcement suspicious transactions indicating that funds sent to the bank may have been the product of foreign corruption.

The report found that, since at least 1997, Riggs had disregarded its anti-money laundering obligations and maintained a dysfunctional anti-money laundering program despite frequent warnings from its bank regulator, the Office of the Comptroller of the Currency (OCC). The report also showed that Federal regulators, including the OCC and Federal Reserve, had done a poor job of compelling Riggs Bank to comply with statutory and regulatory anti-money laundering requirements.

To explain these findings, the report featured two sets of accounts at Riggs Bank, one involving Augusto Pinochet, former President of Chile, and the other involving Equatorial Guinea, an oil-rich country in Africa. The report detailed a number of suspicious transactions involving these accounts, including actions taken by the bank to conceal Pinochet funds from law enforcement and from its regulators, despite red flags involving the source of Mr. Pinochet’s wealth, pending legal proceedings to freeze his assets, and public allegations of serious wrongdoing by this client. The report also detailed suspicious transactions involving more than 60 accounts opened at the bank for the Government of Equatorial Guinea (EG), EG officials, and their family members, including cash deposits of up to \$3 million, accounts opened in the name of offshore corporations controlled by the president or his son, and transfers of millions of dollars in oil proceeds to unfamiliar offshore corporations, all taking place amid public allegations of EG corruption. The report found that the bank had turned a blind eye to evidence suggesting that it was handling the proceeds of foreign corruption, failed to follow its anti-money laundering policies and procedures, and failed to notify law enforcement contrary to Federal banking requirements. The Subcommittee also found that the OCC Examiner-in-Charge had advised against taking formal enforcement actions against Riggs Bank despite repeat anti-money laundering deficiencies, suppressed workpapers attesting to the existence of Pinochet accounts from the OCC’s electronic database, and

accepted a job at Riggs after retiring from the OCC, suggesting that he had become too close to Riggs during the years he was responsible for overseeing the bank.

The report offered a number of recommendations to strengthen anti-money laundering enforcement. It recommended, for example, that Federal banking regulators make greater use of formal enforcement tools, including more timely use of civil fines; that regulators issue final regulations and revised examination guidelines implementing the due diligence requirements of the Patriot Act; and that Congress to impose a one-year cooling off period before Federal bank examiners can accept a position with the financial institution they oversaw. Senators Levin and Coleman subsequently introduced the Bank Examiner Postemployment Protection Act, S. 2814, to establish the cooling off period for senior Federal bank examiners. This provision was enacted into law as a Levin-Coleman amendment to the National Intelligence Reform Act of 2004, S. 2845, on December 17, 2004.

In March 2005, the Subcommittee issued a supplemental bipartisan staff report with additional information about U.S. financial accounts used by Augusto Pinochet, not only at Riggs Bank but also at more than half a dozen other financial institutions operating in the United States. The report showed that Riggs Bank had 28 accounts used by Mr. Pinochet (instead of the nine identified in the original report) in a banking relationship spanning 25 years. In addition, Mr. Pinochet had constructed a secret network of at least 125 U.S. bank and securities accounts, involving millions of dollars, which he used to move funds and transact business, including accounts at Riggs, Citigroup, Banco de Chile-United States, Espirito Santo Bank, and others. These additional accounts present a cautionary tale about the ease with which a determined individual can manipulate the U.S. financial system. The report recommended that, to strengthen the U.S. financial system against these types of money laundering vulnerabilities, U.S. financial institutions should take steps to prevent suspect funds from being transferred to another U.S. financial institution, including by warning the institution under Section 314(b) of the Patriot Act that the transfer is the result of an account closure due to possible money laundering or foreign corruption concerns. In addition, the report recommended that the United States work with the European Union to enable financial institutions with U.S. and E.U. affiliates to exchange client information across international lines to safeguard against money laundering and terrorist financing.

V. REQUESTED AND SPONSORED GAO REPORTS

In connection with its investigations, the Subcommittee makes extensive use of the resources and expertise of the U.S. General Accounting Office (GAO), the Offices of Inspectors General (OIGs) at various Federal agencies, and other entities. During the 108th Congress, the Subcommittee requested a number of reports and studies on issues of importance to Congress and to U.S. consumers. Among these reports were the following:

(1) *Travel Cards: Internal Control Weaknesses at DOD Led to Improper Use of First and Business Class Travel (GAO-04-88) October 24, 2003*

Due to ineffective oversight and management of the DOD's travel card program, GAO was asked to (1) identify the magnitude of premium class travel, (2) determine if DOD's key internal control activities operated effectively and provide examples of control breakdowns, and (3) assess DOD's monitoring and key elements of the control environment. Breakdowns in internal controls and a weak control environment resulted in improper first and business class travel and increased costs to taxpayers. Based on extensive analysis of records obtained from Bank of America, GAO found that DOD spent almost \$124 million on about 68,000 premium class related tickets—primarily business class—during fiscal years 2001 and 2002.

Each premium class ticket can cost the government thousands of dollars more than a comparable coach class ticket. GAO's work also indicated that civilian supervisors, managers, and executives and senior military officers accounted for almost 50 percent of the premium class transactions. GAO considers travel by high-ranking officials to be a sensitive payment area because of its susceptibility to abuse. Breakdowns in key internal controls resulted in a significant level of improper premium class travel. GAO estimated that 72 percent of DOD's fiscal year 2001 and 2002 premium class travel was not properly authorized. Further, GAO found that 73 percent was not properly justified by the traveler. Further, DOD did not have accurate and complete data on the extent of premium class travel and performed little or no monitoring of this travel. In regard to the control environment, GAO found that DOD (1) issued policies that were inconsistent with General Service Administration government-wide travel regulations, (2) did not require military services to issue and update premium class policies to implement DOD's travel regulations consistently, and (3) did not issue guidance on how to document the authorization and justification of premium class travel.

As a result of GAO's audit, DOD has begun updating its travel regulations to more clearly state when premium class travel can be authorized and to emphasize that it must only be used when exceptional circumstances warrant the additional cost. This report was featured in a Subcommittee hearing on this issue.

(2) *Financial Management: Some DOD Contractors Abuse the Federal Tax System with Little Consequence (GAO-04-95) February 12, 2004*

Senators Coleman and Levin requested that GAO determine the magnitude of unpaid Federal taxes owed by DOD contractors and whether any indications exist of abuse or criminal activity by the contractors. GAO was also requested to determine whether the DOD and the IRS had effective processes and controls in place to use the Treasury Offset Program to collect unpaid Federal taxes, and whether DOD contractors with unpaid Federal taxes are prohibited by law from receiving contracts from the Federal Government.

The GAO reported that DOD and IRS records showed that over 27,000 contractors owed about \$3 billion in unpaid taxes as of Sep-

tember 2002. In addition, DOD has not fully implemented provisions of the Debt Collection Improvement Act of 1996, which was designed to assist the IRS in levying up to 15 percent of each contract payment for the purpose of offsetting a contractor's Federal tax debt. Had that Act been fully implemented, GAO estimated that DOD could have collected at least \$100 million in taxes during fiscal year 2002. This report was featured in a Subcommittee hearing on this issue.

(3) *DOD Travel Cards: Control Weaknesses Led to Millions of Dollars Wasted on Unused Airline Tickets (GAO-04-398) March 31, 2004*

In this report, at the request of Senators Coleman and Levin, GAO was asked to (1) determine whether, and to what extent, airline tickets purchased through the centrally billed accounts were unused and not refunded and (2) determine whether DOD's internal controls provided reasonable assurance that all unused tickets were identified and submitted for refunds. GAO found that control breakdowns over the centrally billed accounts resulted in DOD paying for airline tickets that were not used and not processed for refund. DOD was not aware of this problem before our audit and did not maintain data on unused tickets. We determined, based on airline data, that DOD had purchased—primarily in fiscal years 2001 and 2002—about 58,000 tickets with a residual (unused) value of more than \$21 million that remained unused and not refunded as of October 2003. We also identified more than 81,000 partially unused airline tickets with a purchase price of about \$62 million that will require additional analysis to determine the residual value. It is possible that DOD purchased at least \$100 million in airline tickets that it did not use and for which it did not claim refunds from fiscal years 1997 through 2003. The internal controls DOD had in place did not detect millions of dollars of unused airline tickets because DOD did not systematically implement compensating procedures to identify instances in which DOD personnel did not report unused tickets, or reconcile the centrally billed accounts to travel claims to determine whether airline tickets were used. This report was featured in a Subcommittee hearing on this issue.

(4) *Energy Markets: Effects of Mergers and Market Concentration in the U.S. Petroleum Industry (GAO-04-96) May 17, 2004*

As part of an ongoing Subcommittee investigation into energy pricing, Senator Levin asked GAO to examine the impact of recent mergers among oil companies on the availability and price of gasoline sold in the United States.

GAO examined: (1) mergers in the U.S. petroleum industry and why they occurred; (2) the extent to which market concentration (the distribution of market shares among competing firms) and other aspects of market structure in the U.S. petroleum industry changed as a result of these mergers; (3) major changes that have occurred in U.S. gasoline marketing; and (4) how mergers and market concentration in the U.S. petroleum industry have affected U.S. gasoline prices at the wholesale level.

The report identified over 2,600 mergers in the U.S. petroleum industry since the 1990s, most frequently among firms involved in exploration and production. Industry officials cited various reasons

for the mergers, particularly the need for increased efficiency and cost savings. The report found that market concentration had increased substantially in the industry, partly because of these mergers and partly due to consolidation amongst refiners. In highly concentrated markets, firms can raise prices above competitive levels. Evidence suggests mergers also have changed other factors that affect competition, such as the ability of new firms to enter the market. According to industry officials, two major changes have occurred in U.S. gasoline marketing related to these mergers. First, the availability of generic gasoline, which is generally priced lower than branded gasoline, has decreased substantially. Second, refiners now prefer to deal with large distributors and retailers, which has motivated further consolidation in distributor and retail markets.

GAO's econometric analyses indicated that mergers and increased market concentration had generally led to higher wholesale gasoline prices in the United States from the mid-1990s through 2000. Six of the eight mergers GAO modeled led to price increases, averaging about 1 cent to 2 cents per gallon. GAO found that increased market concentration, which reflects the cumulative effects of mergers and other competitive factors, had also led to increased prices, particularly in certain geographic areas. For conventional gasoline, the predominant type used in the country, the change in wholesale price due to increased market concentration ranged from a decrease of about 1 cent per gallon to an increase of about 5 cents per gallon. For boutique fuels sold in the East Coast and Gulf Coast regions, wholesale prices had increased by about 1 cent per gallon, while prices for boutique fuels sold in California had increased by over 7 cents per gallon.

(5) DOD Travel Cards: Control Weaknesses Resulted in Millions of Dollars of Improper Payments (GAO-04-576) June 9, 2004

In this report, at the request of Senator Coleman, GAO was asked to determine whether (1) DOD improperly reimbursed travelers for airline tickets DOD paid for using centrally billed accounts, (2) internal controls were effective in preventing issuance of unauthorized airline tickets, and (3) other control weaknesses led to compromised and fraudulently used centrally billed accounts. A weak control environment and breakdowns in key controls over centrally billed accounts resulted in DOD paying travelers for airline tickets they did not purchase, issuing and paying for unauthorized airline tickets, and paying for goods and services obtained with compromised centrally billed accounts. Based on limited fiscal year 2001 and 2002 data provided by the Army, Navy, and Marine Corps, GAO identified about 27,000 transactions totaling more than \$8 million in which DOD reimbursed travelers for airline tickets paid for by DOD—not the travelers. Requesting reimbursement for items that the traveler knowingly did not pay for may be a crime that could result in imprisonment or a monetary fine, or both. GAO's subsequent tests of a selection of 124 individuals who submitted 204 of these 27,000 transactions confirmed that DOD improperly paid 91 individuals almost \$98,000 for 123 airline tickets DOD purchased with centrally billed accounts. Only four travelers voluntarily reimbursed DOD prior to GAO initiating the audit, even though typically, more than a year had passed since

the improper payments occurred. Several travelers submitted multiple claims for airline tickets they did not purchase, which could indicate intent to defraud the government. In 2003, the Air Force Audit Agency reported that this same problem existed at the Air Force and estimated that it will cost the Air Force more than \$6 million over 6 years. GAO also determined that key internal controls did not provide DOD reasonable assurance that (1) airline tickets purchased and paid for with the centrally billed accounts were based on valid travel orders and (2) centrally billed account numbers were adequately protected against unauthorized use. To demonstrate weaknesses in DOD's system of internal controls, GAO submitted a fictitious travel order to a commercial travel office to obtain an airline ticket from Washington, DC, to Atlanta, GA. DOD issued GAO the airline ticket, established an obligation, and paid for the ticket without detecting the fictitious nature of the request. GAO also found instances where a lack of physical safeguards resulted in the centrally billed account numbers being stolen and used for personal gain. One DOD traveler stole a centrally billed account number to purchase over 70 airline tickets totaling more than \$60,000, which he sold at a discounted rate to coworkers and their family members for personal travel. DOD disputed those fraudulent charges and did not pay for those tickets. However, not all DOD units dispute unauthorized charges and DOD remains vulnerable to paying for fraudulent charges on compromised centrally billed accounts.

(6) *Internet Pharmacies: Some Pose Safety Risks for Consumers*
(GAO-04-820) June 17, 2004

In this report, at the request of Senator Coleman, GAO examined the safety of purchasing pharmaceuticals over the internet.

As the demand for and the cost of prescription drugs rise, many consumers have turned to the Internet to purchase drugs. However, the global nature of the Internet can hinder State and Federal efforts to identify and regulate Internet pharmacies to help assure the safety and efficacy of products sold. Recent reports of unapproved and counterfeit drugs sold over the Internet have raised further concerns. GAO was asked to examine (1) the extent to which certain drugs can be purchased over the Internet without a prescription; (2) whether the drugs are handled properly, approved by the Food and Drug Administration (FDA), and authentic; and (3) the extent to which Internet pharmacies are reliable in their business practices. GAO attempted to purchase up to 10 samples of 13 different drugs, each from a different pharmacy Web site, including sites in the U.S., Canada, and other foreign countries. GAO determined whether the samples contained a pharmacy label with patient instructions for use and warnings on the labels or the packaging and forwarded the samples to their manufacturers to determine whether they were approved by FDA and authentic. GAO also confirmed the locations of several Internet pharmacies and identified those under investigation by regulatory agencies. GAO obtained most of the prescription drugs it targeted from a variety of Internet pharmacy Web sites without providing a prescription. GAO obtained 68 samples of 11 different drugs—each from a different pharmacy Web site in the U.S., Canada, or other foreign countries, including Argentina, Costa Rica, Fiji, India, Mexico,

Pakistan, Philippines, Spain, Thailand, and Turkey. Five U.S. and all 18 Canadian pharmacy sites from which GAO received samples required a patient-provided prescription, whereas the remaining 24 U.S. and all 21 foreign pharmacy sites outside of Canada provided a prescription based on their own medical questionnaire or had no prescription requirement. Among the drugs GAO obtained without a prescription were those with special safety restrictions and highly addictive narcotic painkillers. GAO identified several problems associated with the handling, FDA approval status, and authenticity of the 21 samples received from Internet pharmacies located in foreign countries outside of Canada. Fewer problems were identified among pharmacies in Canada and the United States. None of the foreign pharmacies outside of Canada included required dispensing pharmacy labels that provided instructions for use, few included warning information, and 13 displayed other problems associated with the handling of the drugs. For example, three samples of a drug that should be shipped in a temperature-controlled environment arrived in envelopes without insulation. Manufacturer testing revealed that most of these drug samples were unapproved for the U.S. market; however, manufacturers found the chemical composition of all but four was comparable to the product GAO ordered. Four samples were determined to be counterfeit products or otherwise not comparable to the product GAO ordered. Similar to the samples received from other foreign pharmacies, manufacturers found most of those from Canada to be unapproved for the U.S. market; however, manufacturers determined that the chemical composition of all drug samples obtained from Canada were comparable to the product GAO ordered. Some Internet pharmacies were not reliable in their business practices. Most instances identified involved pharmacies outside of the United States and Canada. GAO did not receive six orders for which it had paid. In addition, GAO found questionable entities located at the return addresses on the packaging of several samples, such as private residences. Finally, 14 of the 68 pharmacy Web sites from which GAO obtained samples were found to be under investigation by regulatory agencies for reasons including selling counterfeit drugs and providing prescription drugs where no valid doctor-patient relationship exists. Nine of these were U.S. sites, one a Canadian site, and four were other foreign Internet pharmacy sites. In commenting on a draft of this report, FDA generally agreed with its findings and conclusions. This report was featured in a Subcommittee hearing on this issue.